



**2022**  
**Report of the**  
**Charter Review Commission**

**April 29, 2022**  
**Montgomery County, Maryland**

April 29, 2022

Montgomery County Council  
Stella Werner Council Office Building  
100 Maryland Avenue, 5<sup>th</sup> Floor  
Rockville, Maryland 20850

Dear Councilmembers:

On behalf of the Montgomery County Charter Review Commission, I am pleased to submit the 2022 Report of the Commission.

In transmitting this Report, I wish to acknowledge the tremendous support the Commission received throughout the past two years from Christine Wellons, Senior Legislative Attorney; Ed Lattner, Chief of the Division of Government Operations, Office of the County Attorney; Marie Jean-Paul, Legislative Services Coordinator, and Stephen Mathany, Legislative Services Coordinator. Were it not for their efforts, made even more difficult these past two years due to the Covid emergency, the Commission would not have been able to carry out its responsibilities.

Respectfully submitted,

A handwritten signature in black ink that reads "George Margolies". The signature is written in a cursive, flowing style.

George Margolies, Chair

# **CHARTER REVIEW COMMISSION**

## **Members**

**George Margolies, Chair**  
**Laura Goddeeris, Vice-Chair<sup>1</sup>**  
**Ronald Stubblefield, Vice-Chair<sup>2</sup>**  
**Anita Cox**  
**Christopher Danley**  
**Katherine Gugulis**  
**David Hill**  
**Ruth Kirinda<sup>3</sup>**  
**Larry Lauer**  
**Susan Miles**  
**Perry Paylor**  
**Galina Teverovsky**  
**Nichole Thomas**

## **Staff**

**Christine Wellons, Senior Legislative Attorney**  
**Ed Lattner, Chief, Division of Government**  
**Operations, Office of the County Attorney Marie**  
**Jean-Paul, Legislative Services Coordinator**  
**Stephen Mathany, Legislative Services**  
**Coordinator**

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<sup>1</sup> Resigned as Commissioner and Vice-Chair as of May 31, 2021

<sup>2</sup> Appointed as Vice-Chair as of June 11, 2021, having been a Commissioner.

<sup>3</sup> Served a partial term

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## **I. INTRODUCTION**

The Constitution of Maryland, Article XI-A, enables counties to adopt charters to establish local governments. County charters are, in effect, constitutions for county governments because they establish the duties and responsibilities for the different branches of government.

The voters of Montgomery County adopted a charter form of government in 1948. In subsequent general elections, voters adopted several amendments to the original Charter. The current Charter was adopted in 1968 with subsequent amendments.

Charter §509, adopted by amendment in 1976, requires the quadrennial appointment of an eleven-member, multi-partisan Commission to study the Charter and make recommendations on potential Charter amendments. Commission members serve four-year terms, and no more than six of the eleven members may be from the same political party.

The Commission researches and evaluates Charter issues raised by its Commissioners, the County Executive, Councilmembers, other government officials, and the public. A report on the Commission's activities is to be submitted to the Council by May 1 of every even-numbered year. The biennial report outlines the issues that the Commission considered and recommends Charter amendments, if any, to include on the general election ballot. By mid-August, the Council determines which Charter questions, in addition to those raised by petition, will be placed on the ballot.

The Commission considered studying several issues related to the current Charter and scheduled five virtual public listening sessions on Wednesday, November 3, 2021 at 7 p.m.; Sunday, November 14, 2021 at 2 p.m.; Saturday, December 11, 2021 at 10 a.m.; Wednesday, January 19, 2022 at 6 p.m.; and Wednesday, February 9, 2022 at 6 p.m. The latter two sessions were originally planned to be in-person sessions—one to be held at the County Council Building and the other to be held at the Upcounty Regional Services Center in Germantown—but both had to be changed to a virtual format due to the continuing COVID-19 emergency.

## **II. SUMMARY OF ISSUES IDENTIFIED FOR POTENTIAL CONSIDERATION**

At its September 9, 2020 and October 14, 2020 meetings, Commissioners individually suggested topics and issues for potential consideration by the full Commission, identifying the

specific section of the Charter, as appropriate, that would need to be amended or reviewed during the course of the term. The topics were:

- Whether to make the Council president an elected position;
- Whether to have residency requirements for at-large Councilmembers;
- Whether to increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive under Section 203;
- Whether to amend Section 111 to require 90-days advance public notice before enacting any legislation;
- Whether to amend Sections 118 and 206 regarding the removal from office of elected officials;
- Whether to amend Section 213 to make the position of County Attorney elected;
- Whether to amend Section 101 regarding the Council's role as the Board of Health and to require the Board of Health to consist of health professionals;
- Whether to amend the Charter to establish school-choice vouchers or charter schools;
- Whether to amend the Charter to provide for a process for recall of Councilmembers and the County Executive;
- Whether to require the Council to hold a public hearing before placing a Charter amendment question on the ballot by resolution; and
- Whether to amend the Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable.

At subsequent meetings, as the year progressed, Commissioners also suggested the following additional topics to be considered:

- Whether to recommend amending Section 510 to preclude the police union from bargaining over discipline; and
- Whether to amend Section 109 to provide more flexibility as to the manner in which legislative days can be designated.

**From the topics above, the Commission chose the following to be considered this term:**

- Whether to amend the Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable.
- Whether to increase the length of time that an individual must reside in the County

in order to qualify to serve as County Executive under Section 203.

- Whether to amend Sections 118 and 206 regarding the removal from office of elected officials.
- Whether to amend the Charter to provide for a process for recall of Councilmembers and the County Executive.
- Whether to amend Section 109 to provide more flexibility as to the manner in which legislative days can be designated.
- Whether to recommend amending Section 510 to preclude the police union from bargaining over discipline.

### **III. ISSUES PRELIMINARILY RECOMMENDED FOR CHARTER AMENDMENT**

#### ***A. Whether to amend the Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable***

On the ballot in November, 2020, were two seemingly irreconcilable questions for eligible Montgomery County citizens to consider. Question D, to amend the Charter so as to elect all Councilmembers by district, rather as then currently 5 by district and 4 at-large, was placed on the ballot by petition. Question C, to amend the Charter so as to expand the Council to consist of 11 Councilmembers by increasing from 5 to 7 the number of Council districts while maintaining the 4 at-large seats, was placed on the ballot by vote of the County Council.

Were both of the ballot questions to be approved by a majority of the votes cast, the question would have occurred as to how to reconcile two ballot questions clearly in opposition to one another. The Attorney General of Maryland, in an advisory opinion issued on July 18, 2002, addressing a similar concern regarding proposed charter amendments in Baltimore City that conflicted, agreed with Baltimore's City Solicitor, opining that "all the proposals that passed must fail" under such circumstances. (see 87 Md. Op. Att'y Gen. 99 (2002))

In fact, in November, 2020, what was feared did not occur. Both ballot questions did not pass. Question C was approved by the voters but Question D was defeated by the voters. However, lest one think such an occurrence is a rarity, one need only be reminded that in 1984,

two years before the electorate approved a nine-member Council comprised of five districts and four at-large members, the voters were faced with two conflicting Charter amendments on the ballot.

In 1984, the Council was comprised of seven members, all of whom were elected at-large. On the ballot that year were two competing proposals: one to create a council of seven members with five district seats and two at-large members; and the second to create a council of seven members comprised of all districts seats. Had the voters approved both of those ballot questions, the matter of irreconcilable questions would have arisen then. However, both questions were defeated.

Both the Maryland Attorney General and the Baltimore City Solicitor made note of the fact that one solution to irreconcilable ballot questions is to address the matter in advance. The preeminent example in the State of Maryland in doing just that is Anne Arundel County. Section 1202(b) of the Anne Arundel County Charter provides that: “If...the voters approve Charter amendments containing provisions so inconsistent that only one can be given effect, only the amendment that receives the higher number of favorable votes shall take effect and amend the Charter.”

With the foregoing as a backdrop, the Commission considered whether to amend the Montgomery County Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable. At our meeting of December 9, 2020, the consensus was that we should proffer a ballot question that would give direction under such circumstances. At our meeting of January 13, 2021, the Commissioners preliminarily agreed upon the following language to propose to the County Council for placement on the ballot, subject to revision after hearing from the community at listening sessions:

***“If, at a congressional or general election held after 2022, voters approve Charter amendments containing provisions so inconsistent that only one can be given effect, only the amendment that receives the highest number of favorable votes must take effect and amend the Charter.”***

***B. Whether to increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive under Section 203***



The current Charter provides that the County Executive shall have been a resident of Montgomery County “for the year preceding the election or appointment...” There is no duration of residency requirement for Councilmembers established in the Charter.

As Commissioners began to discuss this matter, a consensus was quickly reached that the requirement of only one-year residency was too abbreviated a period to ensure that the individual seeking to serve as County Executive had the knowledge of, and exposure to, the County, its residents, its culture, and its concerns. By way of comparison, Prince George’s County and Baltimore County each have a 5-year requirement for their county executive; Anne Arundel has a 4-year requirement for its County Executive; and Frederick County has a 2-year requirement for its county executive.

Nonetheless, Commissioners differed as to the best approach. Some favored a 5-year residency, as in Prince George’s and Baltimore Counties, convinced that this is the minimum time needed to acquaint oneself with the body politic of the county. Some argued for a 3-year residency, arguing that a 5-year period might result in overlapping two election cycles and, thus, disqualifying a candidate unnecessarily and denying voters a choice. Others suggested a requirement in which a residency of 3 years would be calculated on a cumulative basis over a period of 5 years, acknowledging that one’s business or familial needs may take an individual outside of the county during that 5-year period.

Ultimately, a majority of the Charter Review Commission voted in favor of recommending an amendment to the Charter to stipulate a 3-year residency requirement for the election or appointment of a County Executive. Similarly, the Charter Review Commission recommended that the Charter should be amended to require that Councilmembers should meet a 3-year residency requirement. As with the previous recommendation under Section A., this recommendation was subject to revision after hearing from the community at the listening session(s).

***C. Whether to amend Sections 118 and 206 regarding the removal from office of County Executive and Councilmembers***

With the knowledge embedded in our minds of wrongdoing by officials at municipal,

state, and Federal levels, the Commission focused its attention on the inadequacy of the current wording of these two sections of the Charter. Beyond bootstrapping onto a provision of the State Constitution pertaining to certain felonies and misdemeanors, the only additional grounds cited for removal of a County Executive or Councilmembers are “physical or mental disability to perform the duties of the office.” When the Commission last reviewed this section in 2014, it concluded that Maryland law was adequate to protect the citizens of Montgomery County and deferred to the General Assembly to make any changes to the Constitution.

As Commissioners began their discussion as to how best to address whether to augment the extant language in the Charter, they were made cognizant of provisions in the charters of two other local jurisdictions. Since 2012, the Anne Arundel Charter has provided that the office of its County Executive may be declared vacant, not only for the reasons cited in the State Constitution, but also for the additional reason of failing to perform or being incapable of performing the duties of one’s office for 180 consecutive days. More recently, in 2020, the voters of Baltimore City overwhelmingly approved a ballot question to amend the City’s Charter to remove designated elected officials for “incompetency, misconduct in office, willful neglect of duty or felony or misdemeanor in office.”

The language proposed to be changed in our Charter would add the additional grounds of misconduct in office and willful neglect of duty. Several Commissioners, though, were concerned, lest any additional grounds be a slippery slope used by political opponents to exalt personal grievances. To those Commissioners who preferred removal by recall, Counsel to the Commission cited to the provision of the State Constitution that precludes recall of elected County officials.

The initiation of any removal of an elected official—whether for the existing grounds of physical or mental disability, or the criminal behavior addressed in the State Constitution—or any additional grounds that might be added to the Charter, will always be fraught with political overtones, akin to impeachment proceedings. This did not, however, preclude a legitimate discussion as to what grounds are appropriate to add to these Charter sections.

With the foregoing concern in mind, the proponents did not advance including “incompetency” as an additional ground, as is now in the Baltimore City Charter, believing that is too amorphous and malleable to the whims of those opposing the office holder. In defining “neglect of duty”, proponents qualified it by requiring that it not only be *demonstrated* but that

*it have occurred for 180 consecutive days.* The ground of “misconduct” was further qualified to read “**serious** misconduct”, leaving that still to be proved at a hearing.

To ensure that no official be “railroaded”, the Commission provisionally recommended amending the Charter from the current requirement of 6 of 9 members of the Council voting for removal (which would automatically be revised upward to 7 of 11 upon the 2022 increase in the size of the Council) to a higher threshold of “not less than 80% of the Council” (which would amount to 9 members of the 11-member Council).<sup>1</sup> Moreover, the proposed language would be revised to clarify that the County Executive be provided **notice and an opportunity to be heard** in a public hearing, should anyone assert that the current language calling for a public hearing is for the citizenry to voice its opinion. With an opportunity for this hearing, coupled with a right to appeal to Circuit Court for a *de novo* proceeding, concerns as to a slippery slope were mitigated somewhat.

Awaiting further input from the listening session(s) before deciding whether to recommend the comparable language for Section 118 as to Councilmembers, the Commission tentatively recommended the following language:

***Sec. 206. Removal of the County Executive.***

***The County Executive may be removed from office by the affirmative vote of not less than [six members] 80% of the Council after notice and an opportunity to be heard in a public hearing and upon a finding that the County Executive: (1) is unable by reason of physical or mental disability to perform the duties of the office; or (2) has committed serious misconduct in office or willful neglect of duty. Willful neglect of duty must be demonstrated to have occurred for 180 consecutive days. The decision of the Council may be appealed by the County Executive within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make de novo determinations of fact. The County Executive also may be suspended and removed from office in the***

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<sup>1</sup> In the draft final recommendation voted upon, this was changed from the 80% threshold to the specific number of 9 Councilmembers. Ultimately, however, the Commission voted against recommending any amendments to Charter Sections 206 or 118. See pages 16-18.

*manner provided in Section 2 of Article XV of the Constitution of Maryland.*

#### **IV. ISSUES NOT RECOMMENDED FOR CHARTER AMENDMENT**

##### ***A. Whether to amend the Charter to provide for a process for recall of Councilmembers and the County Executive***

As referenced previously under the discussion as to Sections 118 and 206, regarding the grounds for removal of the County Executive and Councilmembers, Counsel advised the Commission that the State Constitution precluded removal of elected county officials via recall. Ed Lattner, Chief of the Division of Government Operations of the Office of County Attorney, drew our attention specifically to Article XVII (“Quadrennial Elections”) of the Maryland Constitution, as well as a supporting Opinion of the Attorney General.

It is not by coincidence that none of the charter counties of Montgomery, Anne Arundel, Frederick, Prince George’s, nor Baltimore has an extant provision for recall of its elected officials. That is because they are preempted by Section 3 of Article XVII, which mandates that all county officials hold office for terms of four years. Interestingly, this constitutional provision is not similarly applicable to municipalities. Thus, Bowie and Salisbury are, at least, two cities that provide for recall.

On October, 18, 1995, the Attorney General issued an Opinion, 80 Md. Op. Att’y Gen. 17 (1995), in response to a request by the Caroline County Governmental Study Commission, that addressed this very issue. In this Opinion, the Attorney General advised that a recall provision, as proposed for the Caroline County Charter, would be unconstitutional in view of Article XVII of the State Constitution.

Having had the benefit of Counsel’s advice at three consecutive meetings of the Commission (December, 2020; January, 2021; and February, 2021) as to the matter of recall being unconstitutional, the Commission moved on from recommending any language as to this topic.

##### ***B. Whether to amend Section 109 to provide more flexibility as to the manner in which legislative days can be designated***

At the request of Marlene Michaelson, Executive Director of the County Council, the Chair placed on the agenda of the March 10, 2021 meeting, a proposal to amend the Charter to provide more flexibility as to the manner in which legislative days can be designated.

As currently written, Section 109 stipulates that the County Council meets on the first and third Tuesdays of each month, but when either of those days is an official holiday the next succeeding Tuesday shall be a day for enactment for legislation. Another provision in this same section, mandated by the State Constitution, precludes the Council from sitting for more than 45 days in a year for the purpose of enacting legislation.

What has proved problematic and worrisome in the past is that holidays and Council recesses find the Council sometimes losing those Tuesdays that count against the total of 45 days allowed. Accordingly, Council staff brought this matter to the Commission for an open discussion in the hope that some flexibility might be built into the language that would allow the Council to meet its needs without bumping up against the 45-day limit.

Some Commissioners requested data as to the number of Council sessions per past years, which was provided for 2011 through 2020. Alternative language was proposed and discussed. Language was suggested (to satisfy certain commissioners) to ensure that adequate notice would be provided of any change of scheduled meetings, although that is already required by the Open Meetings Act. Draft language was placed before the Commissioners. Selena Singleton, Clerk of the Council, as well Marlene Michaelson, participated in a meeting of the Commission.

After extensive discussion among the Commissioners, by a vote of 5-5 at its April 14, 2021 meeting (Commissioners Margolies, Goddeeris, Stubblefield, Hill, and Lauer in the affirmative; Commissioners Danley, Gugulis, Miles, Thomas, and Kirinda in the negative), the Commission failed to recommend the following amendment to Section 109 of the Charter:

“The first and third Tuesdays of each month, and such additional days as the Council may determine, are designated as days for the enactment of legislation, but the Council shall not sit for more than forty-five days in each year for the purpose of enacting legislation. When a first or third Tuesday is an official holiday or occurs on a day when the Council does not meet, the next succeeding the Council may designate an alternative Tuesday business day shall be a day for the enactment of legislation, provided adequate

notice of such change is given pursuant to the state Open Meetings Act....”

***C. Whether to recommend amending Section 510 to preclude the police union from bargaining over discipline***

Section 510 of the Charter, enacted as of the election of November, 1980, authorizes the County Council to provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County police officers. Any such law must prohibit strikes or work stoppages by police officers.

Some Commissioners were concerned that, over the years, the County has ceded too much authority to the police union over disciplinary procedures in the collective bargaining agreements that have been negotiated. Accordingly, prompted by one Commissioner in particular, they suggested that the Commission study whether to amend Section 510 to preclude the police union from bargaining over discipline and, specifically, interfering with internal disciplinary actions of the Police Department.

With the knowledge that the General Assembly was considering several items of legislation related to this very topic and, specifically, the Law Enforcement Officers’ Bill of Rights, counsel to the Commission advised that we would be best to wait until we see what action was taken by General Assembly before we proceeded. With this advice in mind, we deferred action on this item.

Ultimately, the 2021 Regular Session of the General Assembly enacted Senate Bill 627, “Maryland Police Accountability Act of 2021—Law Enforcement Officers’ Bill of Rights—Repeal and Procedures for Discipline”, with an effective date of July 1, 2022. Upon being briefed by counsel at the Commission’s meeting of April 14, 2021 of the legislation, the Commission came to a consensus to set aside any further consideration of this Charter amendment at this time.

**V. FEEDBACK FROM LISTENING SESSIONS AND WRITTEN SUBMISSIONS**

Notwithstanding that the listening sessions were advertised and publicized in the same manner as those that were held in the Winter of 2020 by the Commission prior to the last

election, the turnout this time was very anemic and disappointing. The poor showing might be attributed to several factors.

Although the issues currently under consideration are significant, they pale in comparison to the issue in the spotlight for those listening sessions: the composition and structure of the County Council. Not only had the Commission raised the issue as to the proper balance between the at-large seats and the district seats, but a community organization was petitioning to place on the ballot a question seeking an all-district council. Advocates on all sides of this issue prompted individuals to come to speak at the listening sessions.

Moreover, those listening sessions were all held in person, whereas the listening sessions this time around were all virtual due to Covid. Individuals may very well have been less inclined to testify virtually, or less certain as to how to sign up to speak in lieu of just showing up in person at the appointed time.

In any event, the Commission did receive some feedback—both at the virtual sessions and in writing that the Members have considered:

***A. Written submission to clarify proposed amendment to Section 206 regarding the removal of the County Executive***

Lorraine Jaffe was concerned that our proposed amendment might lead one to believe that it is politically motivated and that the mention of Councilmembers appears to be an afterthought. With that in mind, she requests that the language be clarified as to what constitutes “serious misconduct” or “willful neglect”, inasmuch she is of the opinion that these catch-all phrases are highly subjective and can be used for political purposes.

For sure, the Commission’s decision to recommend a revision to Section 206 was not politically motivated. Rather, we were mindful of recent developments in Baltimore as to their mayors and, originally, wanted to have an avenue to remove elected officials in our county who engage in serious misconduct or willful neglect of duty. However, upon further reflection, a majority of the Commission thought that proceeding in this way was fraught with difficulty, particularly in view of the fact that the proposed language was lacking in examples of what constituted “misconduct” or “neglect of duty”.

***B. Written submission opposed to amending Section 206 regarding the removal of County Executive***

Melissa King was also concerned that the amended language could be used as a political weapon to “get rid of someone the Council doesn’t agree with.” She noted that the current Council votes unanimously on 90 percent of measures and, thus, getting 80 percent [or 9 of 11 votes] to vote on removal is not a high bar. She believes the public should have a recall option and not leave it to politicians to decide who stays or goes. She, too, believes “misconduct” is in the eye of the beholder.

As noted above, a majority of the Commission has come to the conclusion that Ms. King is correct that the amended language should be jettisoned. The majority concurs that the near unanimity of the Council’s voting record in the past is cause for concern as to whether the proposed language would be sufficient.

***C. Testimony in opposition to language as to two ballot questions that are irreconcilable***

Mark Lautman, former treasurer of the Committee for 9 Districts, suggested that the Commission drop its recommendation to address when two irreconcilable proposals are on the ballot at the same time. Instead, he proposes that the County Council be precluded from placing on the ballot any referendum subsequent to a successful citizen-initiated petition.

Although the Commission acknowledges Mr. Lautman’s ire over the Council’s action in 2020, the fact remains—whether by action of the County Council or by action of two competing citizen-initiated petitions—voters may yet be confronted in the future by irreconcilable ballot questions, both of which may be approved. Thus, a majority of the Commission remains of the opinion that there is a need for a Charter amendment to bring clarity to what occurs under such circumstances.

With the enactment of such a new Charter amendment, it will have the effect of spurring both sides of opposing ballot questions to generate support, recognizing what the consequence would be were both ballot questions to be approved. This can only result in higher turnout at the polls, with the ballot question with the larger vote prevailing. As with candidates vying for



an elected position on a ballot, democracy works when the candidate is elected who prevails with the most votes—whether by one vote or by one thousand votes.

***D. Testimony to revise language in Charter that may be insensitive to mental health issues***

Laura Mitchell, a member of the County’s Alcohol and Drug Abuse Committee, requested that the Commission review the language of the Charter with an eye toward any language that might be insensitive to the mental health needs of those with drug or alcohol concerns. She alluded to the recommendations of the National Institute of Drug Abuse. Commissioners Gugulis and Paylor asked of Ms. Mitchell if she had any alternative language to suggest but she did not. Ms. Mitchell said that she would email to Ms. Wellons documents for the Commission to review but she never did.

Not having received the documents, the Commission was at a disadvantage. Nonetheless, a cursory review of the Charter found no provisions that were in need of amendment for being insensitive in its language due to mental health concerns. We will leave it a future Commission to decide if this is worthy of studying.

***E. Written submission to revise the manner of selecting at-large Councilmembers***

David Tolman proposed a novel Charter amendment that would have the four at-large Councilmembers “be appointed by the candidates for County Executive in the general election in proportion to the share of the vote received by said candidates,” provided the candidate receives at least 25% of the vote. Mr. Tolman does not address how this would play out if there are only two candidates or if only one receives 25% of the vote, or what he means “by proportion”.

Nonetheless, inasmuch as the voters of the County have just chosen to restructure the Council at the 2020 election, it is far too premature to even reconsider the structure of the Council.

***F. Testimony to clarify votes needed to remove County Executive for cause***

Mitsuko Herrera brought to the Commission's attention that our recommended change to Section 206 to increase the percentage of the County Council to remove a County Executive for cause should be clarified by inserting "**current**" before "Council", having tentatively recommended an 80% standard. This would be in keeping with what the Charter Review Commission recommended, the Council endorsed, and the voters approved, to amend Section 305 of the Charter a few years ago to clarify that only a vote of all of the **current** Councilmembers—not the size of the statutorily-established Council—had to approve an increase in taxes above a certain rate.

The Commission agrees with Ms. Herrera that such a clarification would have been an improvement to the language initially recommended, but the Commission has since decided that it would be better to change that recommendation to a quantifiable number—nine of the eleven councilmembers—rather than a percentage. Thus, there is no need to add "current" to the language in the sentence.

#### ***G. Testimony to Recommend a Change to Non-Partisan Primaries***

Ms. Herrera also recommended that, in view of the fact that the history of County elections has shown that the winner of the Democratic primary most often determines the winner in the general election, a change in our primary elections is in order. Noting that the turnout at the June primary in a gubernatorial election year is usually low, with the Democratic nominee determinative of the eventual winner, Ms. Herrera recommends that the law be changed to move to a non-partisan primary in which all candidates compete, irrespective of party affiliation. The two candidates receiving the highest votes would then move on to the general election ballot. She would have this apply to both the County Executive and the County Council races.

The concept advocated by Ms. Herrera is in place in various jurisdictions around the nation, most noteworthy in California for state elections. However, what she suggests is not a matter of changing our county's Charter or an issue for consideration by the Charter Review Commission. Rather, it would require an amendment of the Election Law Article of the Maryland Code, which governs the manner of conducting elections.

### ***H. Testimony to Change “County Executive” to “Mayor”***

Ms. Herrera made one final recommendation, to change the title of our County’s chief executive from “County Executive” to “Mayor.” By doing so, she believes he or she would gain greater recognition, “would put us on the map”, would allow us “to govern as a city”, and would permit us to join the National Conference of Mayors. Ms. Herrera is of the opinion that such a change would allow the County to assert itself more.

Irrespective of one’s view as to whether such a change would be simply cosmetic, or whether substantive change would be realized, the designation of executive authority in a County Executive extends beyond the language of Section 201 of the County Charter and, thus, is not simply within our province to recommend a change to place on the ballot.

Rather, the structure of an elected “County Executive” emanates from Article XI-A, Section 3 of the State Constitution. Therefore, absent an amendment to the State Constitution, our chief executive cannot be considered to be a “mayor.”

## **VI. FINAL VOTE ON CHARTER AMENDMENTS**

### **A. To clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable:**

By a **majority**, the Commission voted as follows, to recommend to the County Council the following language to be placed on the 2022 ballot:

**In favor:** George Margolies; Ron Stubblefield; David Hill; Larry Lauer; Perry Paylor; Galina Teverovsky; Nichole Thomas

**Opposed:** Anita Cox; Christopher Danley; Katherine Gugulis; Susan Miles

**“If, at a congressional or general election held after 2022, voters approve Charter amendments containing provisions so inconsistent that only one can be given effect,**

**only the amendment that receives the highest number of favorable votes must take effect and amend the Charter.”**

**B. To increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive under Section 203 or Councilmember under Section 102:**

The Commission **unanimously** recommends to the County Council the following language to be placed on the 2022 ballot:

Section 203. Qualifications

“The County Executive shall have been a resident of Montgomery County for **[the year] three years** preceding the election or appointment, shall not be less than thirty years of age, ...”

Section 102. Composition and Election

Add a new sentence as follows: **“To be elected or appointed to the Council, one shall have been a resident of Montgomery County for three years preceding the election or appointment.”**

**C. To amend Sections 118 and 206 regarding the removal from office of County Executive and Councilmembers:**

By a **majority**, the Commission voted as follows, **not** to recommend to the County Council the following language to be placed on the 2022 ballot:

**Against** recommending the language: Anita Cox; Christopher Danley; Katherine Gugulis; Larry Lauer; Susan Miles; Nichole Thomas

**In favor** of recommending the language: George Margolies; Ronald Stubblefield; David Hill; Perry Paylor

Abstaining: Galina Teverovsky

#### Sec. 206. Removal of the County Executive

The County Executive may be removed from office by the affirmative vote of not less than **[six] nine** members of the Council **after notice and an opportunity to be heard** **in** a public hearing and upon a finding that the County Executive: **(1)** is unable by reason of physical or mental disability to perform the duties of the office; **or (2) has committed serious misconduct in office or willful neglect of duty. Willful neglect of duty must be demonstrated to have occurred for 180 consecutive days.** The decision of the Council may be appealed by the County Executive within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make *de novo* determinations of fact. The County Executive also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland.

#### Section 118. Removal of Councilmembers

A member of the County Council may be removed from office by the affirmative vote of not less than **[six] nine** members of the Council **after notice and an opportunity to be heard in** a public hearing and upon a finding that the Councilmember: **(1)** is unable by reason of physical or mental disability to perform the duties of the office; **or (2) has committed serious misconduct in office or willful neglect of duty. Willful neglect of duty must be demonstrated to have occurred for 180 consecutive days.** The decision of the Council may be appealed by the removed Councilmember within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make *de novo* determinations of fact. A member of the County Council also may be suspended and removed from office in

the manner provided in Section 2 of Article XV of the Constitution of Maryland.

Respectfully submitted,

George Margolies, Chair  
Anita Cox, Commissioner  
Katherine Gugulis, Commissioner  
Albert (Larry) Lauer, Commissioner  
Perry Paylor, Commissioner  
Nicole Thomas, Commissioner

Ronald Stubblefield, Vice Chair  
Christopher Danley, Commissioner  
David Hill, Commissioner  
Susan Miles, Commissioner  
Galina Teverovsky, Commissioner

## **MINORITY REPORT AS TO GROUNDS FOR REMOVAL OF COUNTY EXECUTIVE AND COUNCILMEMBERS**

We wish to take this opportunity to share our thinking as to why we support recommending to the County Council the amendments to Section 118 and 206 of the Charter that the Commission provisionally considered prior to the listening sessions.

As stated in the report, the current language is inadequate in that it fails to provide grounds short of criminal behavior for removing a County Executive or Councilmember who engages in misconduct while in office. After much discussion among the Commissioners in an effort to ensure the new language would not be used by opponents to exalt personal grievances or to exact political revenge, we qualified “misconduct” by “serious” and “neglect of duty” by “willful”. We went further and even stated that willful neglect of duty must be “demonstrated to have occurred for 180 consecutive days”, lest this be used for fleeting indiscretions. We also made a deliberate decision not to include “incompetency” as a ground for removal, even though it was included in the Baltimore City Charter in response to what occurred recently with their mayors; after discussion, we decided that ground was too vague and should be left to the electorate.

We intentionally raised the bar very significantly for removal—not only for these additional grounds but for the original grounds of physical or mental disability to perform one’s duties. Rather than a two-thirds vote of the County Council, we initially proposed that it be an 80% vote. Recognizing that it would be an odd number rounded up to 9 with an 11-member Council, we changed it to 9 in the actual language (in lieu of the 80% standard) when it was put to a vote before the Commission again (upon advice of counsel). In any event, this is a much higher bar for removal of an elected official, not to be taken willy-nilly, as our colleagues would suggest.

Notwithstanding the foregoing, a majority of the Commission did an about-face at its March meeting, deciding to vote against forwarding these amendments to the County Council. A majority spoke of its concern that the language was so open-ended that it could be “weaponized” against a political opponent. Several subscribed to the theory that, whatever bar was set, it could not be high enough because the Councilmembers have voted alike in the past. They dismissed the contention that, not only is the Council expanding to 11 in number, but that its membership is turning over significantly.

Others suggested that they were not comfortable in moving forward with this language unless there were concrete examples placed into the language of the Charter. Yet, to go further in the proposed language and cite specific examples in the Charter is neither practical nor desirable. Whether we were to cite “excessive absenteeism”, of “failing to perform all of some of one’s duties”, or “ceasing to show up for public events”, or “sleeping on the job”, or for some other

cause, a listing of examples can never be inclusive. Similarly, it would not be appropriate to try to cite any or all examples of “serious misconduct” that an official may engage in. What is significant is that the burden of proof will be on those bringing the charge.

Some of our Commissioners would prefer that, in lieu of vesting this power in the Council, that the voters have authority to recall their elected officials. The Commission has been advised that, as currently written, the State Constitution does not provide for recall of County officials. Accordingly, we support the amendment of sections 118 and 206 as a responsible approach to acknowledging, as the voters in Baltimore City and Anne Arundel County have, that the day may come in the future that a need may arise to address a County Executive or County Councilmember whose conduct arises to the level that cries out for removal.

David Hill, Commissioner

George Margolies, Commissioner

Perry Paylor, Commissioner

Ronald Stubblefield, Commissioner



### **Article 1. Legislative Branch.**

- § 101. County Council.
- § 102. Composition and Election.
- § 103. Council Districts.
- § 104. Redistricting Procedure.
- § 105. Term of Office.
- § 106. Vacancies.
- § 107. Compensation.
- § 108. Officers of the Council.
- § 109. Sessions.
- § 110. Exercise of Zoning, Planning and Other Powers.
- § 111. Enactment of Legislation.
- § 112. Effective Date of Legislation.
- § 113. Publication of Legislation.
- § 114. Referendum.
- § 115. Referendum Procedure.
- § 116. Legislative Procedure.
- § 117. Limitations.
- § 118. Removal of Councilmembers.

### **Article 2. Executive Branch.**

- § 201. Executive Power.
- § 202. Election and Term of Office.
- § 203. Qualifications.
- § 204. Compensation.
- § 205. Vacancy.
- § 206. Removal of the County Executive.
- § 207. Temporary Absence or Disability.
- § 208. Veto.
- § 209. Information on Executive Branch.
- § 210. Chief Administrative Officer.
- § 211. Duties of the Chief Administrative Officer.
- § 212. Principal Departments.
- § 213. County Attorney.
- § 214. Department of Finance.
- § 215. Appointments.
- § 216. Appointment of Other Employees of the Executive Branch.
- § 217. Reorganization of the Executive Branch.
- § 218. Internal Audit.

### **Article 3. Finance.**

- § 301. Fiscal Year.
- § 302. Six-Year Programs for Public Services, Capital Improvements, and Fiscal Policy.

- § 303. Capital and Operating Budgets.
- § 304. Budget Hearing.
- § 305. Approval of the Budget; Tax Levies.
- § 306. Item Veto or Reduction.
- § 307. Supplemental Appropriations.
- § 308. Special Appropriations.
- § 309. Transfer of Funds.
- § 310. Surplus.
- § 311. Limitations on Expenditures.
- § 312. Indebtedness.
- § 313. Purchasing.
- § 314. Competitive Procurement.
- § 315. Audit.
- § 316. Public Access to Fiscal Documents.

**Article 4. Merit System and Conflicts of Interest.**

- § 401. Merit System.
- § 402. Personnel Administration.
- § 403. Merit System Protection Board.
- § 404. Duties of the Merit System Protection Board.
- § 405. Political Activity.
- § 406. Prohibition Against Private Use of Public Employees.
- § 407. Prohibition Against Additional Compensation.
- § 408. Work During Official Hours.
- § 409. Corrupt Practices.
- § 410. Code of Ethics.
- § 411. Reserved.

**Article 5. General Provisions.**

- § 501. Disaster—Continuity of Government During Emergencies.
- § 502. Annual Report.
- § 503. Annual Compilation of Laws.
- § 504. County Code.
- § 505. Right to Information.
- § 506. Separability.
- § 507. Amendment.
- § 508. Effective Date.
- § 509. Charter Review Commission.
- § 510. Collective Bargaining.
- § 510A. Collective Bargaining—Fire Fighters.
- § 511. Collective Bargaining—County Employees.
- § 512. Hearing Examiners.
- § 513. Effect of Certain Amendments.

[Note] **\*Editor's note**—The current County Charter was adopted at an election held Nov. 5, 1968, and, as indicated by history notes accompanying amended sections, was amended by subsequent elections. The County's first Charter was adopted in 1948

In the November 3, 2020, election, the voters approved Question C, which amended the Charter by (1) increasing the number of Councilmembers from 9 to 11, (2) increasing the number of Council districts from 5 to 7, (3) providing for the election of 7 Councilmembers by district and 4 Councilmembers at large, and (4) making several corresponding changes to voting requirements throughout the Charter. Pursuant to Charter Section 513, these amendments, which are reflected in Council Resolution 19-581 (Aug. 4, 2020), will initially apply to the Councilmembers elected at the next election, on November 8, 2022.

## Charter of Montgomery County, Maryland

### Preamble

We, the people of Montgomery County, Maryland, a body corporate and politic, under the Constitution and general laws of the State of Maryland, do adopt this Charter as our instrument of government.

### Article 1. Legislative Branch.

#### Sec. 101. County Council.

All legislative powers which may be exercised by Montgomery County under the Constitution and laws of Maryland, including all law making powers heretofore exercised by the General Assembly of Maryland but transferred to the people of the County by virtue of the adoption of this Charter, and the legislative powers vested in the County Commissioners as a District Council for the Montgomery County Suburban District, shall be vested in the County Council. The legislative power shall also include, but shall not be limited to, the power to enact public local laws for the County and repeal or amend local laws for the County heretofore enacted by the General Assembly upon the matters covered by Article 25A, Annotated Code of Maryland, 1957, as now in force or hereafter amended, and the power to legislate for the peace, good government, health, safety or welfare of the County. Nothing herein contained shall be construed to authorize or empower the County Council to enact laws or regulations for any incorporated town, village or municipality in said County on any matter covered by the powers granted to said town, village or municipality by the act incorporating it or any subsequent act or acts amendatory thereto.

**Editor's note**—The authorization of a road project is an executive rather than a legislative administrative act. Eggert v. Montgomery County Council, 263 Md. 243, 282 A.2d 474 (1971).

See County Attorney Opinion dated 10/29/21 explaining that, although the capital budget limits the County Executive's expenditure of money for a capital project, the Executive can use that completed facility for any legitimate governmental purpose absent a law or appropriation limiting the Executive's use of that facility. See County Attorney Opinion dated [3/12/09](#) explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deterring fraud, waste and abuse. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion [6/8/04-A](#) describing the possible violation of separation of powers in a law authorizing the Council to set certain transportation fees without County Executive approval. See County Attorney Opinion dated [4/21/04](#) discussing the limited authority of the Commission on People With Disabilities and the role of the County Attorney as the legal advisor for the County. See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

#### Sec. 102. Composition and Election.

The Council shall be composed of nine members, each of whom shall be a qualified voter of Montgomery County. Four Councilmembers shall be nominated and elected by the qualified voters of the entire County. Each of the five other members of the Council shall, at the time of Nomination and election and throughout the member's term of office, reside in a different Council district, and shall be nominated and elected by the qualified voters of that district. Any change in the boundaries of a Council district after a member is elected shall not render the member ineligible to complete the term for which the member was elected. No member of the Council shall hold any other office of profit in state, county or municipal government. No member of the Council shall be eligible for appointment during the member's term of office to any other office or position carrying compensation created by or under this Charter, except to County Executive in the event of a vacancy. (Election of 11-2-82; election of 11-4-86; election of 11-3-98; election of 11-4-14.)

**Editor's note**—See County Attorney Opinion No. 90.003 dated [3/30/90-A](#) explaining that the County Charter requires a candidate for Council to reside in the councilmanic district that the person seeks to represent.

#### Sec. 103. Council Districts.

Montgomery County shall be divided into five Council districts for the purpose of nominating and electing five members of the Council. Each district shall be compact in form and be composed of adjoining territory. Populations of the Council districts shall be substantially equal. (Election of 11-3-98.)

**Editor's note**—See County Attorney Opinion dated [3/24/11](#) discussing the redistricting process. See County Attorney Opinion dated [3/20/91](#) explaining that the Redistricting Commission may consider and recognize natural and public municipal boundaries in creating new boundaries for councilmanic districts [updates 1981 analysis]. See County Attorney Opinion dated 3/20/91-A describing the impact of the Voting Rights Act on redistricting.

#### **Sec. 104. Redistricting Procedure.**

The boundaries of Council districts shall be reviewed in 1972 and every tenth year thereafter. Whenever district boundaries are to be reviewed, the Council shall appoint, not later than February 1 of the year before the year in which redistricting is to take effect, a commission on redistricting. The Commission shall be composed of eleven registered voters who reside in the County. The Commission shall include at least one but no more than four members of each political party which polled at least fifteen percent of the total vote cast for all candidates for the Council in the last preceding regular election. At least one member of the Commission shall reside in each Council district. The Commission shall, at its first meeting, select one of its members to serve as its chair. No person who holds any elected office shall be eligible for appointment to the Commission.

By November 15 of the year before the year in which redistricting is to take effect, the Commission shall present a plan of Council districts, together with a report explaining it, to the Council. Within thirty days after receiving the plan of the Commission, the Council shall hold a public hearing on the plan. If within ninety days after presentation of the Commission's plan no other law reestablishing the boundaries of the Council districts has been enacted, then the plan, as submitted, shall become law. After any redistricting plan or any other law amending the boundaries of Council districts becomes law, the boundaries of the Council districts so established shall apply to the next regular election for Councilmembers and to any special election held or appointment made to fill a vacancy on the Council that occurs after those boundaries are established. (Election of 11-2-82; election of 11-3-98; election of 11-4-14; election of 11-6-18.)

**Editor's note**—See County Attorney Opinion No. 95.003 dated [12/6/95](#) explaining that the Council retains the authority to control whether the Commission on Redistricting plan becomes law, but the Council must take action within 90 days of receiving the plan. See County Attorney Opinion dated [1/9/92](#) explaining that not all meetings fall within the Open Meetings Act and, therefore, not all meetings need to be open to the public or included in public notice.

#### **Sec. 105. Term of Office.**

Members of the Council shall hold office for a term beginning at noon on the first Monday of December next following the regular election for the Council and ending at noon on the first Monday of December in the fourth year thereafter. In no case shall a Councilmember be permitted to serve more than three consecutive terms. Any member of Council who will have served three or more consecutive terms at noon on the first Monday of December 2018 shall be prohibited from commencing to serve a successive term of office at that time. For purposes of this Section, service of a term includes complete service of a full term and partial service of a full term. Partial service of a full term means service by a Councilmember of more than two years of a term. (Election of 11-8-16.)

**Editor's note**—See County Attorney Opinion dated [11/28/16](#) discussing amendments to the Charter regarding reconciliation of term limits.

#### **Sec. 106. Vacancies.**

A vacancy shall occur when any member of the Council shall, before the expiration of the term for which the member was elected, die, resign the office, become disqualified for membership on the Council, or be removed from office. Unless the Council has provided by law for filling a vacancy by special election, the following process for filling a vacancy shall apply. When a vacancy has occurred, a majority of the remaining members of the Council shall appoint a person to fill the vacancy within thirty days. An appointee to fill a vacancy, when succeeding a party member, shall be a member of the same political party as the person elected to such office at the time of election. If the Council has not acted within thirty days, the County Executive shall appoint a person to fill the vacancy within ten days thereafter. If a person having held the vacant position was a member of a political party at the time of election, the person appointed by the County Executive shall be the nominee of the County Central Committee of that party. An appointee shall serve for the unexpired term of the previous member. If the previous member was elected by the voters of a Council district, any person appointed to fill that vacancy shall reside in the district represented by the previous member as it exists when the vacancy occurs. (Election of 11-2-82; election of 11-8-88; election of 11-3-98; election of 11-4-14.)

**Editor's note**—See County Attorney Opinion dated [2/19/99](#) discussing filling an interim Council vacancy by temporary appointment pending a special election.

#### **Sec. 107. Compensation.**

The Council shall prescribe by law the compensation for its members. Membership on the Council shall be considered a full-time position for the purpose of determining compensation. No change in the compensation of members of the Council shall become effective during the term of office of the Council enacting the change. (Election of 11-7-06.)

#### **Sec. 108. Officers of the Council.**

The Council shall elect, from among its members, a president of the Council, who shall preside over meetings of the Council. The Council may provide for the selection of such other officers or employees as it may deem desirable for the exercise of its powers. The Council may employ or retain special legal counsel to assist it in the exercise of its powers, and may provide by law for special legal counsel to assist, advise, or represent any office of the legislative branch in the exercise of its duties. Any special legal counsel employed or retained under this section shall be subject to appropriation and is not subject to Section 213. (Election of 11-6-84; election of 11-5-02.)

## **Sec. 109. Sessions.**

The first and third Tuesdays of each month, and such additional days as the Council may determine, are designated as days for the enactment of legislation, but the Council shall not sit for more than forty-five days in each year for the purpose of enacting legislation. When a first or third Tuesday is an official holiday, the next succeeding Tuesday business day shall be a day for the enactment of legislation. The Council may sit in nonlegislative sessions at such other times as it may determine. In nonlegislative sessions, the Council may adopt rules and regulations which implement or provide for the administration or execution of legislation under procedures and provisions for notice and hearing prescribed by law. The Council shall not take or discuss any action except in public session or in a closed session expressly allowed by the Council rules of procedure. The Council rules of procedure shall permit the same or greater public access to Council sessions as the state Open Meetings Act or any successor state law. The Council shall not make or confirm any appointment in a closed session. (Election of 11-4-80; election of 11-2-82; election of 11-5-02.)

**Editor's note**—In Montgomery Citizens League v. Greenhalgh, 253 Md. 151, 252 A.2d 242 (1969), it was held that the council need not designate an emergency extra session a legislative day separate and apart from the call of the session.

See County Attorney Opinion dated 7/14/00 discussing the need to modernize the Charter in relation to access to documents. See County Attorney Opinion dated [6/19/00](#) recommending an amendment to the Charter to conform with State law.

## **Sec. 110. Exercise of Zoning, Planning and Other Powers.**

In the exercise of powers authorized by any act of the General Assembly or the Constitution of Maryland, other than the law making power vested in it by Article XI-A of the Constitution and the grant of express powers in Article 25A, Annotated Code of Maryland, 1957, the Council shall follow the procedure set forth in such law or section of the Constitution and the exercise thereof shall be effected in the manner prescribed therein. The powers relating to zoning, planning or subdividing shall be exercised as prescribed by law. (Election of 11-4-86; election of 11-8-88.)

## **Sec. 111. Enactment of Legislation.**

The Council shall enact legislation only after public hearing upon reasonable notice. No legislation shall be enacted by the Council unless it receives the affirmative vote of five members of the Council. Legislation containing a section declaring that it is necessary for the immediate protection of the public health, safety, or interest, and enacted by the affirmative vote of at least six members of the Council, shall be expedited legislation. Expedited legislation, as defined in this section, is the emergency legislation referred to in Article XI-A, Section 3, of the Constitution of Maryland. Any vote cast by a member on any legislation shall be recorded in the journal of the Council. (Election of 11-4-86; election of 11-5-02.)

**Editor's note**—See County Attorney Opinion dated [1/13/09](#) discussing soliciting money as a form of free speech.

## **Sec. 112. Effective Date of Legislation.**

All legislation, except expedited legislation, shall take effect ninety-one days after the date when it becomes law, unless a later effective date is prescribed in the legislation. Expedited legislation shall take effect on the date when it becomes law, unless a different effective date is prescribed in the legislation. (Election of 11-2-82; election of 11-5-02.)

## **Sec. 113. Publication of Legislation.**

All legislation shall be published as required by the Constitution and laws of Maryland. In addition, a summary of any legislation, except expedited legislation, enacted by the Council shall be published before the date when it takes effect, in such manner as the Council shall prescribe by law. A summary of expedited legislation shall be published promptly after enactment. (Election of 11-5-02.)

## **Sec. 114. Referendum.**

Any legislation enacted by the Council shall be submitted to a referendum of the voters upon petition of five percent of the registered voters of the County except legislation (1) appropriating money or imposing taxes, (2) prescribing Council districts, (3) authorizing the issuance of bonds or other financial obligations for a term of less than twelve months, and (4) authorizing obligations for public school sites, construction, remodeling, or public school buildings, whenever the total amount of such obligations authorized to be issued in any one year does not exceed one-fourth of one percent of the assessable base of the County. (Election of 11-7-78; election of 11-6-90; election of 11-4-14.)

**Editor's note**—Charter § 114 is cited in Montgomery County Volunteer Fire-Rescue Association v. Montgomery County Board of Elections, 418 M.463, 15 A.3d 798 (2011), and quoted in Doe v. Montgomery County Board of Elections, 406 Md. 697, 962 A.2d 342 (2008).

## **Sec. 115. Referendum Procedure.**

Any petition to refer legislation to the voters of the County shall be filed with the Board of Elections within ninety days after the date when the legislation becomes law, provided that fifty percent of the required signatures accompanying the petition are filed within seventy-five days after the date when the legislation becomes law. When a referendum petition that contains the required signatures has been filed, the legislation to be referred shall not take effect until thirty days after its approval by a majority of the registered voters voting thereon. Expedited legislation shall remain in effect from the date it becomes law notwithstanding the filing of a petition for referendum, but shall be repealed thirty days after its rejection by a majority of the registered voters voting thereon. (Election of 11-7-78; election of 11-5-02.)

**Editor's note**—Charter § 115 is cited in Montgomery County Volunteer Fire-Rescue Association v. Montgomery County Board of

Elections, 418 Md. 463, 15 A.3d 798 (2011), and in Doe v. Montgomery County Board of Elections, 406 Md. 697, 962 A.2d 342 (2008).

#### **Sec. 116. Legislative Procedure.**

Consistent with law and the provisions of this Charter, the Council shall, by resolution, prescribe its rules of procedure and provide for the publication of its proceedings.

#### **Sec. 117. Limitations.**

Neither the Council, nor any member thereof, shall appoint, dismiss, or give directions to any individual employee of the Executive Branch of the County Government.

**Editor's note**—See County Attorney Opinion dated [10/1/08](#) explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants.

#### **Sec. 118. Removal of Councilmembers.**

A member of the County Council may be removed from office by the affirmative vote of not less than six members of the Council after a public hearing and upon a finding that the Councilmember is unable by reason of physical or mental disability to perform the duties of the office. The decision of the Council may be appealed by the removed Councilmember within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make *de novo* determinations of fact. A member of the County Council also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland. (Election of 11-2-82; election of 11-4-86.)

## **Article 2. Executive Branch.**

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#### **Sec. 201. Executive Power.**

The executive power vested in Montgomery County by the Constitution and laws of Maryland and by this Charter shall be vested in a County Executive who shall be the chief executive officer of Montgomery County and who shall faithfully execute the laws. In such capacity, the County Executive shall be the elected executive officer mentioned in Article XI-A, Section 3, of the Constitution of Maryland. The County Executive shall have no legislative power except the power to make rules and regulations expressly delegated by a law enacted by the Council or by this Charter. (Election of 11-2-82.)

**Editor's note**—The authorization of a road project is an executive rather than an administrative act, Eggert v. Montgomery County Council, 263 Md. 243, 282 A.2d 474 (1971).

See County Attorney Opinion dated 10/29/21 explaining that, although the capital budget limits the County Executive's expenditure of money for a capital project, the Executive can use that completed facility for any legitimate governmental purpose absent a law or appropriation limiting the Executive's use of that facility. See County Attorney Opinion dated [11/28/11-A](#) regarding the constitutionality of permitting community benefits agreements. See County Attorney Opinion dated [3/12/09](#) explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deferring fraud, waste and abuse. See County Attorney Opinion dated [10/1/08](#) explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated [4/12/06](#), concerning development districts, which cites Charter Section 201. See County Attorney Opinion dated [6/8/04-A](#) describing the possible violation of separation of powers in a law authorizing the Council to set certain transportation fees without County Executive approval. See County Attorney Opinion dated [4/21/04](#) discussing the limited authority of the Commission on People with Disabilities and the role of the County Attorney as the legal advisor for the County. See County Attorney Opinion dated [7/22/98](#) commenting on the means of requiring binding dispute resolution process. See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

#### **Sec. 202. Election and Term of Office.**

The County Executive shall be elected by the qualified voters of the entire County at the same time as the Council and shall serve for a term of office commencing at noon on the first Monday of December next following the election, and ending at noon on the first Monday of December in the fourth year thereafter, or until a successor shall have qualified. In no case shall a County Executive be permitted to serve more than three consecutive terms. Any County Executive who will have served three or more consecutive terms at noon on the first Monday of December 2018 shall be prohibited from commencing to serve a successive term of office at that time. For purposes of this Section, service of a term includes complete service of a full term and partial service of a full term. Partial service of a full term means service by a County Executive of more than two years of a term. (Election of 11-2-82; election of 11-8-16.)

**Editor's note**—See County Attorney Opinion dated [11/28/16](#) discussing amendments to the Charter regarding reconciliation of term limits.

#### **Sec. 203. Qualifications.**

The County Executive shall have been a resident of Montgomery County for the year preceding the election or appointment, shall be not less than thirty years of age, shall be a qualified voter of Montgomery County and shall not hold any other office of profit in federal, state, county or municipal government. The County Executive shall not, during the term of office, be eligible for appointment to any other County office or position carrying compensation. The County Executive shall devote full time to the duties of the office and shall not participate in any private occupation for compensation. (Election of 11-2-82.)



**Editor's note**—2000 L.M.C., ch. 4, § 1, added Section 1A-107, County Executive Residency Requirement, to Chapter 1A, Establishing the Structure of County Government, which states that the County Executive must have been a resident of the County for one year before the Executive is elected or appointed.

See County Attorney Opinion dated [11/26/01](#) explaining that the police department cannot void red-light citations issued based upon an automated traffic control signal, but the County Attorney may do so.

#### **Sec. 204. Compensation.**

The compensation of the County Executive shall be prescribed by the Council by law. The council shall not change the compensation of any County Executive during the term of office to which elected. (Election of 11-2-82.)

**Editor's note**—See County Attorney Opinion dated [2/19/97](#) explaining that the County Executive has the authority to establish a separate salary schedule for non-merit heads of departments and principal offices within the Executive Branch. [attachment]

#### **Sec. 205. Vacancy.**

A vacancy in the office of the County Executive shall exist upon the death, resignation, disqualification, or removal of the County Executive. Unless the Council has provided by law for filling a vacancy by special election, the following process for filling a vacancy shall apply. When a vacancy has occurred, the Council, by a vote of not less than five members, shall appoint a successor to fill the vacancy within forty-five days of the vacancy. An appointee to fill a vacancy, when succeeding a party member, shall be a member of the same political party as the person elected to such office at the time of election. If the Council has not made an appointment within forty-five days, the Council shall appoint within fifteen days thereafter the nominee of the County Central Committee of the political party, if any, of the person elected to such office. The Chief Administrative Officer shall act as County Executive and perform all the duties of that office until such time as the vacancy has been filled. (Election of 11-2-82; election of 11-4-86; election of 11-8-16.)

**Editor's note**—See County Attorney Opinion dated [2/19/99](#) discussing filling an interim Council vacancy by temporary appointment pending a special election.

#### **Sec. 206. Removal of the County Executive.**

The County Executive may be removed from office by the affirmative vote of not less than six members of the Council after a public hearing and upon a finding that the County Executive is unable by reason of physical or mental disability to perform the duties of the office. The decision of the Council may be appealed by the County Executive within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make *de novo* determinations of fact. The County Executive also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland. (Election of 11-2-82; election of 11-4-86.)

#### **Sec. 207. Temporary Absence or Disability.**

In the event of the temporary absence or disability of the County Executive, the Chief Administrative Officer shall perform the duties of the County Executive, unless the County Executive shall designate in writing some other person in the Executive Branch.

#### **Sec. 208. Veto.**

Upon the enactment of any legislation by the Council, the Council President shall within three days deliver it to the County Executive, who within ten days after receiving it shall approve or disapprove it. If the Executive disapproves such legislation, the Executive shall return it to the Council within ten days after receiving it, with the reasons for the Executive's disapproval stated in writing. Not later than 60 days after receiving the Executive's message of disapproval, the Council may, by the affirmative vote of six members, enact legislation over the disapproval of the Executive. Any legislation which the Executive has neither approved nor disapproved shall become law on the eleventh day after the Executive receives it. The Council may by law further specify how any period of time mentioned in this section is measured. (Election of 11-2-82; election of 11-4-86; election of 11-6-90; election of 11-7-06.)

**Editor's note**—See County Attorney Opinion dated [1/13/09](#) discussing soliciting money as a form of free speech. See County Attorney Opinion dated [6/8/04-A](#) describing the possible violation of separation of powers in a law authorizing the Council to set certain transportation fees without County Executive approval.

#### **Sec. 209. Information on Executive Branch.**

The County Executive shall provide the Council with any information concerning the Executive Branch that the Council may require for the exercise of its powers.

**Editor's note**—Section 209 of the Montgomery County Charter was quoted in *Caffrey v. Montgomery County*, 370 Md. 272, 805 A.2d 268 (2002).

See County Attorney Opinion dated [10/1/08](#) explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants.

#### **Sec. 210. Chief Administrative Officer.**

The County Executive shall appoint a Chief Administrative Officer subject to confirmation by the Council. The Chief Administrative Officer shall be a professionally qualified administrator who shall serve at the pleasure of the County Executive, with compensation determined by the County Executive subject to the approval of the Council. (Election of 11-2-82.)

**Editor's note**—See County Attorney Opinion dated [7/8/02](#) describing the extent to which quasi-judicial officials may engage in political activities. See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated [2/19/97](#) explaining that the County Executive has the authority to establish a separate salary schedule for non-merit heads of departments and principal offices within the Executive Branch. [attachment]

#### **Sec. 211. Duties of the Chief Administrative Officer.**

The Chief Administrative Officer shall, subject to the direction of the County Executive, supervise all departments, offices, and agencies of the Executive Branch, advise the County Executive on all administrative matters and perform such other duties as may be assigned by the County Executive, or by this Charter. (Election of 11-2-82.)

**Editor's note**—See County Attorney Opinion dated [3/12/09](#) explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deterring fraud, waste and abuse. See County Attorney Opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated [1/8/08](#) regarding collection of debts owed to the County. See County Attorney Opinion dated [4/10/06-A](#) discussing the appointment and supervision of heads of departments and principal offices. See County Attorney Opinion dated [4/10/06](#), concerning the Chief Administrative Officer's authority to terminate an appointed office, which quotes Charter Section 211. See County Attorney Opinion dated [7/8/02](#) describing the extent to which quasi-judicial officials may engage in political activities. See County Attorney Opinion dated [4/13/99](#) (4/15/99 on cover memo) analyzing the Chief Administrative Officer's authority to make a sole-source contract in excess of \$25,000 without obtaining consent of the director of procurement or the contract review committee. See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated [4/4/91](#) explaining that a special assistant to the County Executive may serve as the supervisor of the merit system employees assigned to work in the Office of Minority and Multicultural Affairs with no effect on the status and rights of the employees.

#### **Sec. 212. Principal Departments.**

In the Executive Branch there shall be an Office of the County Attorney, a Department of Finance and any departments, agencies, offices, or other bodies prescribed by this Charter, or by the Council by law.

**Editor's note**—See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

#### **Sec. 213. County Attorney.**

The County Executive shall appoint a County Attorney, subject to confirmation by the Council. The County Attorney shall be the chief legal officer of the County, conduct all the law business of the County, be a legal advisor to the Council, and be the legal advisor to the County Executive, all departments, and other instrumentalities of the County Government. The County Attorney shall represent the County in all actions in which the County is a party. The County Attorney and the staff of the office shall engage in no other law practice. The County Attorney may, with the approval of the Council, temporarily employ special legal counsel to work on problems of an extraordinary nature when the work to be done is of such character or magnitude as to require services in addition to those regularly provided by the County Attorney. The County Attorney shall serve at the pleasure of the County Executive but, upon request, shall be entitled to a public hearing before the Council prior to dismissal from office. (Election of 11-2-82; election of 11-6-84.)

**Editor's note**—See County Attorney opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated [1/8/08](#) regarding collection of debts owed to the County. See County Attorney Opinion dated [4/21/04](#) discussing the limited authority of the Commission on People with Disabilities and the role of the County Attorney as the legal advisor for the County. See County Attorney Opinion dated [4/26/99](#) explaining that a transfer of development rights easement continues to restrict development even when the underlying zoning of the property is changed. See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated [4/18/91](#) explaining that it is inappropriate for the County Attorney's Office to respond to requests for legal advice from a source outside of the County government.

#### **Sec. 214. Department of Finance.**

The Department of Finance shall be the custodian of all County funds, securities and insurance policies; collect taxes, special assessments, license fees and other revenue; manage indebtedness, invest and disburse County funds; prepare an Annual Financial Report containing a detailed account of all monies received and paid out by the County and perform such other functions as shall be prescribed by law. (Election of 11-8-88.)

**Editor's note**—See County Attorney Opinion dated [6/3/08](#) discussing public purpose funds and non-public purpose funds. See County Attorney Opinion dated [1/8/08](#) regarding collection of debts owed to the County.

#### **Sec. 215. Appointments.**

The County Executive, after receiving the advice of the Chief Administrative Officer, shall appoint a single officer to head each department, principal office or agency of the Executive Branch, and an officer to fill any position in the Executive Branch designated by law as a non-merit position, all subject to the confirmation of the Council. Except for commissions appointed to advise the Council, the County Executive shall appoint, subject to the confirmation of the Council, all members of boards and commissions unless otherwise prescribed by state law or this Charter. (Election of 11-8-94.)



**Editor's note**—See County Attorney Opinion dated [11/28/11-A](#) regarding the constitutionality of permitting community benefits agreements. See County Attorney Opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County attorney as legal adviser. See County Attorney Opinion dated [4/10/06-A](#), discussing the appointment and supervision of heads of departments and principal offices. See County Attorney Opinion dated [1/27/03](#) explaining that the interagency coordinating board membership provision in the Code does not conflict with the Charter appointment provision or with the State enabling law. See County Attorney Opinion dated [2/19/99](#) discussing filling an interim Council vacancy by temporary appointment pending a special election. See County Attorney Opinion dated [5/22/98](#) explaining that a recreation area advisory board does not have the authority to elect representatives to the County Recreation Board; those representatives are appointed by the County Executive. See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter. See County Attorney Opinion dated [4/4/91](#) explaining that a special assistant to the County Executive may serve as the supervisor of the merit system employees assigned to work in the Office of Minority and Multicultural Affairs with no effect on the status and rights of the employees.

#### **Sec. 216. Appointment of Other Employees of the Executive Branch.**

All employees of the Executive Branch other than those specifically provided for in this Charter shall be appointed and removed and their salaries shall be fixed under the merit system by the heads of the several departments, offices and agencies of the County.

**Editor's note**—See County Attorney Opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated [11/12/97](#) indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion dated [4/4/91](#) explaining that a special assistant to the County Executive may serve as the supervisor of the merit system employees assigned to work in the Office of Minority and Multicultural Affairs with no effect on the status and rights of the employees.

#### **Sec. 217. Reorganization of the Executive Branch.**

The Council may prescribe by law the organization of the Executive Branch of County government. The County Executive may submit to the Council in writing, reorganization plans reallocating powers, functions or responsibilities of the various departments and agencies of the Executive Branch. A reorganization plan shall become law ninety days following its presentation to the Council, if by that time it has not been disapproved by a vote of five members of the Council. (Election of 11-4-86.)

**Editor's note**—See County Attorney Opinion No. 97-1 dated [6/27/97](#) explaining that the law establishing the Office of the Inspector General as a principal office in the Executive Branch of County government conflicts with the Charter.

#### **Sec. 218. Internal Audit.**

The County Executive shall cause internal audits of all departments, offices and agencies of the Executive Branch, and other internal audits as prescribed by law, to be performed. (Election of 11-8-88.)

### **Article 3. Finance.**

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#### **Sec. 301. Fiscal Year.**

The fiscal year of the County shall commence on July 1 of each year and end on June 30 in the following year, unless otherwise prescribed by state law.

**Editor's note**—See County Attorney Opinion dated [4/7/99](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

#### **Sec. 302. Six-Year Programs for Public Services, Capital Improvements, and Fiscal Policy.**

The County Executive shall submit to the Council, not later than January 15 of each even-numbered year, a comprehensive six-year program for capital improvements. The County Executive shall submit to the Council, not later than March 15 of each year, comprehensive six-year programs for public services and fiscal policy. The six-year programs shall require a vote of at least five Councilmembers for approval or modification. Final Council approval of the six-year programs shall occur at or about the date of budget approval.

The public services program shall include a statement of program objectives and recommend levels of public service by the County government, and shall provide an estimate of costs, a statement of revenue sources, and an estimate of the impact of the program on County revenues and the capital budget.

The capital improvements program shall include a statement of the objectives of capital programs and the relationship of capital programs to the County's long-range development plans; shall recommend capital projects and a construction schedule; and shall provide an estimate of costs, a statement of anticipated revenue sources, and an estimate of the impact of the program on County revenues and the operating budget. The capital improvements program shall, to the extent authorized by law, include all capital projects and programs of all agencies for which the County sets tax rates or approves budgets or programs. The Council may amend an approved capital improvements program at any time by an affirmative vote of six Councilmembers.

The fiscal program shall show projections of revenues and expenditures for all functions, recommend revenue and expenditure policies for the program period and analyze the impact of tax and expenditure patterns on public programs and the economy of the County.

The County Executive shall provide such other information relating to these programs as may be prescribed by law.

All capital improvement projects which are estimated to cost in excess of an amount to be established by law or which the County Council determines to possess unusual characteristics or to be of sufficient public importance shall be individually authorized by law; provided however, that any project declared by the County Council to be of an emergency nature necessary for the protection of the public health or safety shall not be subject to this requirement if the project is approved by the affirmative vote of six Councilmembers. Any project mandated by law, statutory or otherwise, interstate compact, or any project required by law to serve two or more jurisdictions shall, likewise, not be subject to this requirement. The County Council shall prescribe by law the methods and procedures for implementation of this provision. (Election of 11-7-78; election of 11-4-86; election of 11-3-92; election of 11-5-96.)

**Editor's note**—See County Attorney Opinion dated [4/7/99](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations. See County Attorney Opinion dated [2/5/96](#) explaining that the budget must include recommended expenditures and revenue services for the Board of Education and including the legislative history of the section. See County Attorney Opinion No. 90.008 dated [11/20/90](#) discussing the use of consent calendars to consolidate capital improvement bills and proposed amendments to the County Code to permit more than one item on the consent calendar at a time. [attachment]

### **Sec. 303. Capital and Operating Budgets.**

The County Executive shall submit to the Council, not later than January 15 and March 15, respectively of each year, proposed capital and operating budgets including recommended expenditures and revenue sources for the ensuing fiscal year and any other information in such form and detail as the County Executive shall determine and as may be prescribed by law. These budgets shall be consistent with the six-year programs. A summary shall be submitted with the budgets containing an analysis of the fiscal implications for the County of all available budgets of any agencies for which the Council sets tax rates, makes levies, approves programs or budgets. (Election of 11-6-84; election of 11-3-92.)

**Editor's note**—See County Attorney Opinion dated [5/5/09](#) regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated 10/1/08 explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated [4/7/99](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations. See County Attorney Opinion dated [6/9/98](#) addressing the creation of Department of Liquor Control by State law and the department's funding and expenditures. See County Attorney Opinion dated [5/8/98](#) explaining that State law created the Department of Liquor Control and gives the Council oversight over the department, but does not give the Council budget or appropriation authority. See County Attorney Opinion dated [2/5/96](#) explaining that the budget must include recommended expenditures and revenue services for the Board of Education and including the legislative history of the section.

### **Sec. 304. Budget Hearing.**

The Council shall hold public hearings on the proposed budget and the six-year programs required by this Charter, commencing not earlier than twenty-one days following their receipt.

### **Sec. 305. Approval of the Budget; Tax Levies.**

The Council may add to, delete from, increase or decrease any appropriation item in the operating or capital budget. The Council shall approve each budget, as amended, and appropriate the funds therefor not later than June 1 of the year in which it is submitted.

An aggregate operating budget which exceeds the aggregate operating budget for the preceding fiscal year by a percentage increase greater than the annual average increase of the Consumer Price Index for all urban consumers for the Washington-Baltimore metropolitan area, or any successor index, for the twelve months preceding December first of each year requires the affirmative vote of six Councilmembers. For the purposes of this section, the aggregate operating budget does not include: (1) the operating budget for any enterprise fund; (2) the operating budget for the Washington Suburban Sanitary Commission; (3) expenditures equal to tuition and tuition-related charges estimated to be received by Montgomery College; and (4) any grant which can only be spent for a specific purpose and which cannot be spent until receipt of the entire amount of revenue is assured from a source other than County government.

The Council shall annually adopt spending affordability guidelines for the capital and operating budgets, including guidelines for the aggregate capital and aggregate operating budgets. The Council shall by law establish the process and criteria for adopting spending affordability guidelines. Any aggregate capital budget or aggregate operating budget that exceeds the guidelines then in effect requires the affirmative vote of seven Councilmembers for approval.

By June 30 each year, the Council shall make tax levies deemed necessary to finance the budgets. Unless approved by an affirmative vote of all current Councilmembers, the Council shall not levy an ad valorem weighted tax rate on real property to finance the budgets that exceeds the ad valorem weighted tax rate on real property approved for the previous year. The weighted tax rate is calculated by determining the sum of each property tax rate adjusted by the proportion of assessable base that is charged that tax rate. (Election of 11-7-78; election of 11-6-84; election of 11-6-90; election of 11-3-92; election of 11-8-94; election of 11-3-98; election of 11-4-08; election of 11-6-18; election of 11-3-20.)

**Editor's note**—See County Attorney Opinion dated 10/29/21 explaining that, although the capital budget limits the County Executive's expenditure of money for a capital project, the Executive can use that completed facility for any legitimate governmental purpose absent a law or appropriation limiting the Executive's use of that facility. See County Attorney Opinion dated [5/5/09](#) regarding the County executive's ability to impound appropriated funds. See County Attorney Opinion dated [10/1/08](#) explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated [6/20/06](#), concerning the Charter revenue limit, which interpreted Charter Section 305. See County Attorney Opinion dated [5/10/99](#) recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion dated [4/7/99](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain

limitations. See County Attorney Opinion dated [6/9/98](#) addressing the creation of Department of Liquor Control by State law and the department's funding and expenditures. See County Attorney Opinion dated [5/8/98](#) explaining that State law created the Department of Liquor Control and gives the Council oversight over the department, but does not give the Council budget or appropriation authority. See County Attorney Opinion dated [1/26/98](#) analyzing a petition to amend charter to require any increase in taxes to be approved by referendum. See County Attorney Opinion dated [7/14/94](#) explaining that the Education Article allows Council to place restrictions on tuition and fees by the Board of Trustees of Montgomery College, and that a proposed amendment to Charter § 305 re approval of budget, appropriation of funds, and levying taxes does not appear to conflict with State law. See County Attorney Opinion dated [9/3/92](#) explaining flaws in § 305 based on a misleading petition and an amendment that conflicts with State law. See County Attorney Opinion dated [7/14/94](#) explaining flaws in § 305 based on a misleading petition and an amendment that conflicts with State law. See County Attorney Opinion dated [10/30/91-A](#) describing the additions to Charter § 305 by Question F as not conflicting with the TRIM amendment.

### **Sec. 306. Item Veto or Reduction.**

Upon approval of the budget, it shall be delivered within three days to the County Executive who within ten days thereafter may disapprove or reduce any item contained in it. If the County Executive disapproves or reduces any item in the budget, it shall be returned to the Council with the reasons for the disapproval or reduction in writing. The Council may, not later than June 30 of that year, reapprove any item over the disapproval or reduction of the County Executive by the affirmative vote of six members, except that the affirmative vote of five members shall be required in the case of the budgets of the Council, the Fire and Rescue Commission, the Fire Departments and Rescue Squads, the Housing Opportunities Commission and Montgomery College. (Election of 11-4-80; election of 11-2-82; election of 11-4-86; election of 11-8-88; election of 11-3-92.)

**Editor's note**—See County Attorney Opinion dated [5/5/09](#) regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated [4/7/99](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

### **Sec. 307. Supplemental Appropriations.**

Any supplemental appropriation shall be recommended by the County Executive, who shall specify the source of funds to finance it. The Council shall hold a public hearing on each proposed supplemental appropriation after at least one week's notice. A supplemental appropriation that would comply with, avail the County of, or put into effect a grant or a federal, state, or county law or regulation, or one that is approved after January 1 of any fiscal year, requires an affirmative vote of five Councilmembers. A supplemental appropriation for any other purpose that is approved before January 1 of any fiscal year requires an affirmative vote of six Councilmembers. The Council may, in a single action, approve more than one supplemental appropriation. The Executive may disapprove or reduce a supplemental appropriation, and the Council may reapprove the appropriation, as if it were an item in the annual budget. (Election of 11-7-2000.)

**Editor's note**—See County Attorney Opinion dated [5/5/09](#) regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated [10/1/08](#) explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County Attorney Opinion dated [4/7/99-A](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

### **Sec. 308. Special Appropriations.**

A special appropriation is an appropriation which states that it is necessary to meet an unforeseen disaster or other emergency, or to act without delay in the public interest. Each special appropriation shall be approved by not less than six Councilmembers. The Council may approve a special appropriation at any time after public notice by news release. Each special appropriation shall specify the source of funds to finance it. (Election of 11-4-86; election of 11-7-2000.)

**Editor's note**—See County Attorney Opinion dated [5/5/09](#) regarding the County Executive's ability to impound appropriated funds. See County Attorney Opinion dated [4/7/99](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

### **Sec. 309. Transfer of Funds.**

The County Executive may at any time transfer an unencumbered appropriation balance within a division or between divisions of the same department. Transfers between departments, boards or commissions, or to any new account, shall be made only by the County Council upon the recommendation of the County Executive. The total cumulative transfers from any one appropriation shall not exceed ten percent of the original appropriation. No transfer shall be made between the operating and capital budget appropriation.

### **Sec. 310. Surplus.**

The County may accumulate earned surplus in any enterprise fund or unappropriated surplus in any other fund. With respect to the General Fund, any unappropriated surplus shall not exceed five percent of the General Fund revenue for the preceding fiscal year. An unappropriated surplus may be used to fund any supplemental or special appropriations. (Election of 11-7-2000.)

**Editor's note**—See County Attorney Opinion dated [4/7/99](#) clarifying that the Council may place conditions on appropriations prior to June 1, with certain limitations.

### **Sec. 311. Limitations on Expenditures.**

No expenditure of County funds shall be made or authorized in excess of the available unencumbered appropriations therefor.

**Editor's note**—See County Attorney Opinion dated [3/13/19](#) regarding inclusion of non-appropriation clauses in DLC leases, enabling termination of leases where adequate funds for rent are not appropriated. See County Attorney Opinion dated [2/18/19](#) explaining the County's ability to provide a landlord with either a general obligation note or a limited obligation revenue note to repay the landlord for the cost of tenant improvements. See County Attorney Opinion dated [10/28/10](#) comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated [10/1/08](#) explaining Council's ability to impose limitations on the Executive's ability to seek and obtain grants. See County attorney Opinion dated [4/28/08](#) regarding collective bargaining negotiations of benefits for current employees and future retirees. See County Attorney Opinion dated [9/7/07](#) discussing methods of acquiring the construction of infrastructure for development districts. See County Attorney Opinion dated [5/3/00](#) clarifying that the County cannot enter into agreements until funds have been appropriated.

**Editor's note**—Former Sec. 311A, Limitations on Expenditures for Landfills in Residential Zones, adopted by the election of 11-7-08, was repealed by the election of 11-4-08. See East v. Gilchrist, 296 Md. 368, A.2d 285 (1983); holding section 311A cannot be given effect under circumstances involving an order of the secretary of health and mental hygiene and requirement of local funding under public general law.

**Editor's note**—Former Sec. 311B, Limitations on Expenditures, Contract, and Permits for Burying or Trenching Sewage Sludge in Residential Zones, adopted by the election of 11-4-80, was repealed by the election of 11-4-08.

### **Sec. 312. Indebtedness.**

The County may incur debt. No indebtedness for a term of more than one year shall be incurred by the County to meet current operating expenses. All County indebtedness for a term in excess of one year shall become due not later than thirty years after the date of issuance. If at any time the Council shall have failed to appropriate and to make available sufficient funds to provide for the timely payment of the interest and principal then due upon all County indebtedness, it shall be the duty of the Director of Finance to pay, or to make available for payment, to the holders of such indebtedness from the first revenues thereafter received applicable to the general funds of the County, a sum equal to such interest and principal. (Election of 11-6-90.)

**Editor's note**—See County Attorney Opinion dated [10/23/91](#) explaining that a loan guarantee to a non-profit corporation is comparable to that of the County making a loan under Ch. 23B. A loan guarantee would not constitute either an operating expense or a capital expense, and could not exceed 1 year.

### **Sec. 313. Purchasing.**

The Council shall prescribe by law a centralized system of purchasing and contracting for all goods and services used by the County. The centralized purchasing system shall be administered under the professional supervision of the Chief Administrative Officer subject to the direction of the County Executive.

**Editor's note**—See County Attorney Opinion dated [4/13/99](#) (4/15/99 on cover memo) analyzing the Chief Administrative Officer's authority to make a sole-source contract in excess of \$25,000 without obtaining consent of the director of procurement or the contract review committee. See County Attorney Opinion dated [9/23/91](#) explaining that State law does not prohibit the Department of Liquor Control from entering into contracts with private entities to operate the liquor stores.

**Editor's note**—Former Sec. 313A, Purchasing, Contracting for Goods, Services with C&P Telephone Company, adopted by the election of 11-2-82, was repealed by the election of 11-4-08. In Rowe, et al. v. The Chesapeake and Potomac Telephone Company of Maryland, et al., 65 Md. App. 527, 501 A.2d (1985), it was held that Charter section 313A could not be given effect because it conflicted with a state Public Service Commission Order.

### **Sec. 314. Competitive Procurement.**

The Council shall prescribe by law for competitive procurement for purchases by or contracts with the County in excess of an amount or amounts established by law. (Election of 11-4-80; election of 11-6-90.)

**Editor's note**—See County Attorney Opinion dated [11/12/97](#) indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion dated [9/23/91](#) explaining that State law does not prohibit the Department of Liquor Control from entering into contracts with private entities to operate the liquor stores.

### **Sec. 315. Audit.**

The Council shall contract with, or otherwise employ, a certified public accountant to make annually an independent post audit of all financial records and actions of the County, its officials and employees. The complete report of the audit shall be presented to the Council and copies of it shall be made available to the public.

**Editor's note**—Res. No. 10-457, introduced and adopted on Nov. 1, 1983, adopted procedures for the selection of the independent auditor.

### **Sec. 316. Public Access to Fiscal Documents.**

All fiscal documents required by this Charter shall be public records, and copies shall be made available to the public. Any estimates, reports, or justifications on which they are based shall be open to public inspection subject to reasonable regulations.

## **Article 4. Merit System and Conflicts of Interest.**

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## **Sec. 401. Merit System.**

The Council shall prescribe by law a merit system for all officers and employees of the County government except: (a) members of the Council, the County Executive, the Chief Administrative Officer, the County Attorney; (b) the heads of the departments, principal offices and agencies, as defined by law; (c) any officer holding any other position designated by law as a non-merit position; (d) one or more confidential aides for each member of the Council; (e) two senior professional staff members for the Council as a whole as the Council may designate from time to time; (f) three special assistants to the County Executive as the Executive may designate from time to time; (g) special legal counsel employed pursuant to this Charter; (h) members of boards and commissions; and (i) other officers authorized by law to serve in a quasi-judicial capacity.

Any law which creates a new department, principal office, or agency, or designates a position as a non-merit position, requires the affirmative vote of six Councilmembers for enactment. Any law which repeals the designation of a position as a non-merit position requires the affirmative vote of five Councilmembers for enactment.

Officers and employees subject to a collective bargaining agreement may be excluded from provisions of law governing the merit system only to the extent that the applicability of those provisions is made subject to collective bargaining by legislation enacted under Section 510, Section 510A, or Section 511 of this Charter.

The merit system shall provide the means to recruit, select, develop, and maintain an effective, non-partisan, and responsive work force with personnel actions based on demonstrated merit and fitness. Salaries and wages of all classified employees in the merit system shall be determined pursuant to a uniform salary plan. The Council shall establish by law a system of retirement pay.

The Council by law may exempt probationary employees, temporary employees, and term employees from some or all of the provisions of law governing the merit system, but the law shall require these employees to be recruited, selected and promoted on the basis of demonstrated merit and fitness.

The Council by law may establish within the merit system a program to recruit and select qualified individuals with severe physical or mental disabilities on a noncompetitive basis. (Election of 11-4-80; election of 11-6-84; election of 11-8-94; election of 11-5-96; election of 11-3-98; election of 11-7-2000; election of 11-6-2012; election of 11-6-18.)

**Editor's note**—Section 401 of the Montgomery County Charter was cited in Montgomery County, Maryland v. Jamsa, 153 Md. App. 346, 836 A. 2d 745 (2003) and interpreted in Anastasi v. Montgomery County, 123 Md. App. 472, 719 A.2d 980 (1998).

See County Attorney Opinion dated [10/28/10](#) comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated [3/12/09](#) explaining the Inspector General's authority to investigate an ongoing personnel matter as part of the goal of detecting and deterring fraud, waste and abuse. See County Attorney Opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated [11/26/01-A](#) explaining that police sergeants are considered FLSA exempt, even though certain duty assignments may render them eligible for overtime pay. See County Attorney Opinion dated [5/10/99](#) recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion dated [2/19/97](#) explaining that the County Executive has the authority to establish a separate salary schedule for non-merit heads of departments and principal offices within the Executive Branch. [attachment] See County Attorney Opinion dated [11/12/97](#) indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion No. 95.002 dated [5/17/95](#) explaining that a member of retirement plan who retires under the retirement incentive plan may participate in a County contract awarded under the procurement process. See County Attorney Opinion No. 90.007 dated [7/24/90](#) explaining that the County Council may amend the uniform salary plan only through legislation and not by resolution.

## **Sec. 402. Personnel Administration.**

The County Executive shall be responsible for adopting personnel regulations for the administration and implementation of the merit system law. These regulations shall be adopted in the manner provided for by law. The Chief Administrative Officer, under the direction of the County Executive and subject to merit system laws and regulations, shall be responsible for administering the County's merit system. (Election of 11-4-80.)

**Editor's note**—See County Attorney Opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated [5/10/99](#) recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion dated [4/13/99](#) (4/15/99 on cover memo) analyzing the Chief Administrative Officer's authority to make a sole-source contract in excess of \$25,000 without obtaining consent of the director of procurement or the contract review committee. See County Attorney Opinion dated [11/12/97](#) indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion No. 90.007 dated [7/24/90](#) explaining that the County Council may amend the uniform salary plan only through legislation and not by resolution.

## **Sec. 403. Merit System Protection Board.**

There is established a Merit System Protection Board composed of three members who are qualified voters of the County appointed by the Council. One member shall be appointed each year for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed only for the remainder of that term. Appointment shall be made so that not more than two members of the Board shall be members of the same political party. No member shall hold political office or participate in any campaign for any political or public office during the member's term of office. Members of the Board shall be compensated as prescribed by law. (Election of 11-4-80.)

**Editor's note**—Section 403 of the Montgomery County Charter was cited in Montgomery County, Maryland v. Jamsa, 153 Md. App. 346, 836 A. 2d 745 (2003)

See County Attorney Opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County attorney as legal adviser. See County Attorney Opinion dated [7/8/02](#) describing the extent to which quasi-judicial officials may engage in political activities. See County Attorney Opinion dated [5/10/99](#) recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter.

#### **Sec. 404. Duties of the Merit System Protection Board.**

Any employee under the merit system who is removed, demoted, or suspended shall have, as a matter of right, an opportunity for a hearing before the Merit System Protection Board, which may assign the matter to a hearing examiner to conduct a hearing and provide the Board with a report and recommendations. The charges against the employee shall be stated in writing, in such form as the Board shall require. If the Board assigns the matter to a hearing examiner, any party to the proceeding shall have, as a matter of right, an opportunity to present an oral argument on the record before the Board prior to a final decision. The Board shall establish procedures consistent with law for the conduct of its hearings. The decisions of the Board in such appeals shall not be subject to review except by a court of competent jurisdiction. The Council shall provide by law for the investigation and resolution of formal grievances filed under the merit system and any additional duties or responsibilities of the Board. The Board shall conduct on a periodic basis special studies and audits of the administration of the merit and retirement pay systems and file written reports of its findings and recommendations with the Executive and the Council. The Board shall comment on any proposed changes in the merit system law or regulations in a timely manner as provided by law. (Election of 11-4-80.)

**Editor's note**—Section 404 of the Montgomery County Charter was cited in Montgomery County, Maryland v. Jamsa, 153 Md. App. 346, 836 A. 2d 745 (2003)

See County Attorney Opinion dated [12/17/08](#) discussing the authority and role of the Merit System Protection Board and the role of the County Attorney as legal adviser. See County Attorney Opinion dated [5/10/99](#) recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter.

#### **Sec. 405. Political Activity.**

No officer or employee of the County shall be prohibited from participating in politics or political campaigns; however, the Council may by law restrict political activities by County officers and employees (including members of boards and commissions) who serve in a quasi-judicial capacity. No County officer or employee shall be obligated to contribute to a political campaign or to render political service. (Election of 11-2-82; election of 11-3-98.)

**Editor's note**—See County Attorney Opinion dated [7/8/02](#) describing the extent to which quasi-judicial officials may engage in political activities. See Attorney General Opinion No. 98-003 (unpublished) dated [1/27/98](#) explaining that the State election laws preempt the County from regulating the solicitation of political contributions. See County Attorney Opinion dated [12/10/97](#) explaining that the County may prohibit members of its quasi-judicial boards and commissions from soliciting funds for partisan political campaigns or restricting other political activities that conflict with a compelling County interest.

#### **Sec. 406. Prohibition Against Private Use of Public Employees.**

No member of the Council, the County Executive, or any officer or employee of the County shall detail or cause any officer or employee of the County to do or perform any service or work outside of the officer's or employee's public office or employment. (Election of 11-2-82.)

**Editor's note**—See County Attorney Opinion dated [8/11/00](#) indicating that an elected official running for office must devote “official” time to official duties.

#### **Sec. 407. Prohibition Against Additional Compensation.**

No member of the Council and no officer or employee of the County whose salary is fixed, in whole or in part, by this Charter, the laws of the County, or its personnel regulations, shall be entitled, directly or indirectly, to any other salary, expenses, or compensation from the County for performance of public duties except expenses for travel and subsistence incident to the performance of official duties as prescribed by law. (Election of 11-2-82.)

**Editor's note**—See County Attorney Opinion dated [9/2/03](#) analyzing that, although permitted under personnel and collective bargaining principles, a grant program to cover closing costs for public safety employees would be taxable income to the employees receiving the benefit. See County Attorney Opinion dated [5/10/99](#) recognizing that authorized reimbursement for college tuition, training and/or education costs made to County employees do not violate the Charter. See County Attorney Opinion No. 90.002 dated [3/30/90](#) explaining that a County employee may receive two paychecks (one as a full-time County employee and one as a paid member of a committee) within certain parameters.

#### **Sec. 408. Work During Official Hours.**

All officers and employees of the Executive or Legislative Branches who receive compensation paid in whole or in part from County funds shall devote their entire time during their official working hours to the performance of their official duties.

**Editor's note**—See County Attorney Opinion dated [8/11/00](#) indicating that an elected official running for office must devote “official” time to official duties.

#### **Sec. 409. Corrupt Practices.**

No person whose salary or expenses are paid in whole or in part from County funds shall invite, accept, offer, give or promise to give any money or any valuable thing in consideration of appointment or employment by the County. Any person violating this Section shall be removed from any public office or employment held and be subject to such other penalties as may be prescribed by law. (Election of 11-2-82.)

#### **Sec. 410. Code of Ethics.**

The Council shall adopt by law a code of ethics applicable to all public employees. In this section, public employee includes each County employee, elected officer, and appointed officer, including a member of a board or commission, and any other person designated by law.

The code of ethics shall at a minimum regulate: (a) conflicts of interest; (b) solicitation and receipt of gifts; (c) other employment of present and former public employees; (d) lobbying; (e) financial disclosure by public employees; (f) the use of County property and County insignia; and (g) the use of the prestige of office.

The code of ethics shall:

- a) provide that each public employee owes a fiduciary responsibility to the County, which the public employee shall not breach by any public or private action;
- b) prohibit a public employee from obtaining an economic benefit as a result of public employment if the economic benefit is received on terms more favorable than those available to persons who are not public employees;
- c) allow waivers from restrictions and requirements of the code if a waiver is in the best interest of the County and all pertinent facts are disclosed to the public;
- d) authorize enforcement of the code and impose penalties for violations; and
- e) include any other provisions required by State law or that the Council finds serve the purposes of this section.

The Council by law shall prohibit corrupt practices by any individual or organization that attempts to obtain or is a party to a contract with the County, including kickbacks in the award of County contracts and using confidential information obtained in performing a contract with the County for personal gain or the gain of another without the approval of the County.

The Council may by law establish a commission to enforce and interpret the code of ethics and related law. The Council by law may allow an ethics commission to retain legal counsel with the approval of the Council, subject to appropriation, and may exempt legal counsel for the commission from Section 213. (Election of 11-2-82; election of 11-5-96.)

**Editor's note**—See County Attorney Opinion dated [8/23/02](#) describing the elements required for a complaint to the Ethics Commission to initiate an investigation. See County Attorney Opinion dated [9/8/98](#) explaining that County law limiting contractors from seeking or obtaining an economic benefit in addition to payment does not extend to sub-contractors unless the Office of Procurement requires its contractors to extend the prohibition to sub-contractors.

#### **Sec. 411. Reserved.**

**Editor's note**—Section 411, related to prohibited activities and derived from Char. Res. No. 8-935, § 3 as amended by an election of 11-2-82, was repealed by an amendment of 11-5-96.

### **Article 5. General Provisions.**

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#### **Sec. 501. Disaster—Continuity of Government During Emergencies.**

In order to ensure continuity of government during an emergency caused by a disaster or enemy attack, the Council shall prescribe by law for the temporary suspension of specific provisions of this Charter and for temporary succession to the powers and duties of public offices whether filled by election or appointment.

#### **Sec. 502. Annual Report.**

The County Executive shall prepare and provide to the Council and the public, within sixty days after the end of each fiscal year, an annual report setting forth the activities and accomplishments of the County government.

#### **Sec. 503. Annual Compilation of Laws.**

As soon as practicable each year, the County Attorney shall have published a compilation or a cumulative supplement to the County Code, with index, which shall include all legislation and regulations of a general or permanent nature adopted or approved by the Council or County Executive during the preceding year. (Election of 11-6-90.)

#### **Sec. 504. County Code.**

Unless the Council shall provide for more frequent publication by law, each ten years there shall be compiled under the direction of the County Attorney an annotated code of all public local laws, County legislation, and regulations then having the force and effect of law, and this Charter. The Council may, by legislation, legalize this code and shall cause it to be published in an indexed volume. (Char. Res. No. 7-711; election of 11-6-90.)

#### **Sec. 505. Right to Information.**

Any person shall have the right to inspect any document held by County government, except confidential police records, personnel records, records of a confidential nature as defined by law, or records that are or may be exempted from disclosure under the state Public Information Act or other applicable state or federal law. The Council may adopt reasonable regulations for such inspection. A certified copy of any such document shall be furnished upon payment of a reasonable fee established by such regulations. This section shall not apply to a document or other material obtained or prepared in anticipation of litigation or for use in legal proceedings to which the County is a party. (Election of 11-5-02.)

**Editor's note**—Former Section 505 of the Montgomery County Charter was quoted and interpreted in *Caffrey v. Montgomery County*, 370 Md. 272, 805 A.2d 268 (2002), where it was held that former Section 505 waived executive privilege and attorney-client privilege in relation to public information requests. At the 2002 general election, the voters approved an amendment to Montgomery County Charter Section 505 making the section consistent with State public information protections.

See County Attorney Opinion dated 7/14/00 discussing the need to modernize the Charter in relation to access to documents. See County Attorney Opinion dated [6/19/00](#) recommending an amendment to the Charter to conform with State law.

#### **Sec. 506. Separability.**

If any article, section, or provision of this Charter shall be held unconstitutional, invalid, or inapplicable to any person or circumstance by the final decision of a court of competent jurisdiction, all other articles, sections, or provisions of this Charter and their application to all other persons and circumstances shall be separable and shall not be affected by such decision.

**Editor's note**—Charter amendment that conflicts with public general law may not be submitted to votes for approval. Montgomery County v. Bd. of Supervisors of Elections, 311 Md. 512, 536 A.2d 641 (1988).

#### **Sec. 507. Amendment.**

This Charter may be amended in the manner provided in Section 5 of Article XI-A of the Constitution of Maryland.

#### **Sec. 508. Effective Date.**

This amended Charter shall become effective from and after the thirtieth day after its adoption.

#### **Sec. 509. Charter Review Commission.**

There shall be a Charter Review Commission appointed by the County Council every four years, within six months after the Council assumes office, for the purpose of studying the Charter. The Commission shall be composed of eleven members who shall be residents of the County, five of whom shall be appointed from a list of names submitted by the County Executive. Not more than six members shall be of the same political party. The chairperson shall be designated by the Council and the vice-chairperson shall be designated by the County Executive. The Commission shall report at least once to the Council on the Commission's activities within one year after appointment of the Commission. Commission reports shall be submitted not later than May 1 of every even-numbered year. The reports shall contain recommendations concerning proposed Charter amendments, if any. (Char. Res. No. 8-935, § 1.)

#### **Sec. 510. Collective Bargaining.**

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County police officers. Any law so enacted shall prohibit strikes or work stoppages by police officers. (Election of 11-4-80.)

**Editor's note**—Charter Sec. 510 is cited in *Mayor and City Council for Ocean City v. Bunting* 168 Ms. App. 134,895 A.2d 1068 (2006).

See County Attorney Opinion dated [10/28/10](#) comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated [7/22/10](#) regarding the steps in the out-of-cycle collective bargaining process. See County Attorney Opinion dated [5/4/09](#) regarding the steps in the collective bargaining process. See County Attorney Opinion dated [7/22/98](#) commenting on the means of requiring binding dispute resolution process.

#### **Sec. 510A. Collective Bargaining—Fire Fighters.**

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County career fire fighters. Any law so enacted shall prohibit strikes or work stoppages by career fire fighters. (Election of 11-8-94.)

**Editor's note**—See County Attorney Opinion dated [10/28/10](#) comparing the limits on Council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated [7/22/10](#) regarding the steps in the out-of-cycle collective bargaining process. See County Attorney Opinion dated [5/4/09](#) regarding the steps in the collective bargaining process. See



County Attorney Opinion dated [7/22/98](#) commenting on the means of requiring binding dispute resolution process.

#### **Sec. 511. Collective Bargaining—County Employees.**

The Montgomery County Council may provide by law for collective bargaining, with arbitration or other impasse resolution procedures, with authorized representatives of officers and employees of the County government not covered by either Section 510 or Section 510A of this Charter. Any law so enacted shall prohibit strikes or work stoppages for such officers and employees. (Election of 11-6-84; election of 11-8-94.)

**Editor's note**—See County Attorney Opinion dated [10/28/10](#) comparing the limits on council authority to make changes to retirement benefits with its ability to modify health benefits. See County Attorney Opinion dated [7/22/10](#) regarding the steps in the out-of-cycle collective bargaining process. See County Attorney Opinion dated [5/4/09](#) regarding the steps in the collective bargaining process. See County Attorney Opinion dated [7/22/98](#) commenting on the means of requiring binding dispute resolution process.

#### **Sec. 512. Hearing Examiners.**

Hearing examiners authorized by law to conduct hearings and render written reports and recommendations may preside over matters referred to them at the request of executive branch agencies, the Merit System Protection Board, and the County Board of Appeals under procedures provided by law, in addition to any matters assigned to them by the Council in the exercise of its powers as provided by law. (Election of 11-4-86.)

#### **Sec. 513. Effect of Certain Amendments.**

The taking effect of this Charter, or any amendment to this Charter, shall not of itself affect the tenure, term, status, or compensation of any appointed officer or employee of the County then holding office, except as directly provided in this Charter. Any amendment to this Charter that increases or decreases the number of members of the County Council, or alters the provisions for election of the members of the Council, shall initially apply to the members of the Council elected at the next election after the adoption of the Charter amendment. (Election of 11-4-86; election of 11-3-98.)

**Editor's note**—Charter amendments approved at the election held on November 3, 1998, repealed the heading ("Schedule of Transitional Provisions"), subheadings ("General" and "Merit System"), and opening paragraph of "Schedule of Transitional Provisions"; renumbered section 1 under "General" to section 513; and repealed section 2 under "Merit System." Section 3 was repealed by Charter amendment approved at the election held on November 6, 1990. Previously, Charter amendments approved at the election held on November 2, 1982, revised "Schedule of Transition Provisions" by repealing former sections 2—16 and enacting new sections 2 (formerly section 16) and 3 (formerly section 17).

**Council Public Hearings:** Community members are encouraged to participate in all Council public hearings and there are multiple ways to provide testimony including live virtual testimony, in-person testimony, prerecorded audio or video testimony or written testimony. The Council is recommending that residents, who choose to attend in-person Council meetings, get fully vaccinated to protect themselves and others against Covid-19. If this is not possible, virtual participation is encouraged.

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## Press Releases

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# Montgomery County Charter Review Commission Listening Session Will be Held Virtually on Feb. 9 at 6 p.m.

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**For Immediate Release: Tuesday, January 25, 2022**

**Rockville, Maryland, Tuesday, Jan. 25, 2022** — The Montgomery Charter Review Commission will hold its fifth listening session with the public on Wednesday, Feb. 9, 2022 at 6 p.m. to receive input as to three potential Charter amendments. Due to the COVID-19 pandemic this listening session will now be held virtually.

Please follow this [link](#) to sign up to speak no later than Feb. 8 at 5 p.m. Additional details on the potential amendments are provided below.

The Montgomery County Charter is the constitution of the Montgomery County government. As provided in the Charter, the Charter Review Commission is an eleven-member body appointed by the County Council to study and recommend changes to the Charter. These recommendations may lead to proposed amendments being placed on the ballot to be voted upon by registered voters.

The Commission has tentatively considered and seeks public input on the following amendments:

- Whether to amend Section 206 of the Charter regarding the removal of a County Executive for the additional reasons of serious misconduct in office or willful neglect of duty, provided that the willful

neglect of duty must be demonstrated to have occurred for 180 consecutive days. The proposed amendment would additionally require an affirmative vote of not less than 80 percent of the County Council, in lieu of the current threshold of six of nine members of the Council. The Commission is also interested in hearing whether to amend Section 118, applicable to Councilmembers, to provide similar provisions for removal.

- Whether to amend Section 203 of the Charter so as to increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive, from the current requirement of a one-year to a three-year residency requirement. Similarly, the Commission tentatively considered, subject to review following the listening sessions, to recommend that Councilmembers meet the same three-year residency. There is currently no requirement.
- Whether to amend the Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable, as was possible in the 2020 election when two diametrically opposing proposals as to the composition of the County Council were on the ballot. The Commission has tentatively proposed, subject to revision after the listening sessions, that in such an instance only the amendment that receives the higher number of favorable votes would take effect.

If you would like to participate in the virtual session, you must preregister at least one business day in advance of the listening session scheduled on Feb. 9 (sign up here), or you may call 240-777-7905. If you have not preregistered, the Commission cannot guarantee that you will be able to speak at the session.

If you have a prepared statement, which is not necessary, please email a courtesy copy to [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

All speakers will be provided three minutes each to speak. If an individual has spoken at a previous listening session, he or she will be placed at the end of the queue to speak again.

Members of the public also are welcome to submit written comments to the Charter Review Commission at [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If a listening session is canceled due to inclement weather, please submit your written comments to the above email address. Emergency closure information is available at <https://www.montgomerycountymd.gov/cupf/info-cupf/emergency.html>.

*Release ID: 22-030*

*Media Contact: Stephen Mathany,*

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**Council Public Hearings:** Community members are encouraged to participate in all Council public hearings and there are multiple ways to provide testimony including live virtual testimony, in-person testimony, prerecorded audio or video testimony or written testimony. The Council is recommending that residents, who choose to attend in-person Council meetings, get fully vaccinated to protect themselves and others against Covid-19. If this is not possible, virtual participation is encouraged.

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## Press Releases

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# Sign Up to Speak at the Montgomery County Charter Review Commission Virtual Listening Session on Dec. 11 at 10 a.m.

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**For Immediate Release: Tuesday, December 7, 2021**

**Rockville, Maryland, Tuesday, Dec. 7, 2021** — The Montgomery Charter Review Commission will hold its third listening sessions with the public on Saturday, Dec. 11, 2021 at 10 a.m. to receive input as to three potential Charter amendments.

Please follow this link to sign up to speak no later than Dec. 10 at 3 p.m. If you would like to watch the Dec. 11 listening session without preregistering to speak, you can join as an observer at <https://us06web.zoom.us/j/81344987572>.

Additional details on the potential amendments and future listening sessions are provided below.

The Dec. 11, 2021 listening session will be held virtually. Two additional sessions are tentatively scheduled to be held in person on Jan. 19 and Feb. 9, 2022. However, should circumstances change due to inclement weather or the COVID-19 pandemic, notice will be provided that the in-person sessions will change to virtual sessions.

The Montgomery County Charter is the constitution of the Montgomery County government. As provided in the Charter, the Charter Review Commission is an eleven-member body appointed by the County Council to study and recommend changes to the Charter. These recommendations may lead to proposed amendments being placed on the ballot to be voted upon by registered voters.

The Commission has tentatively considered and seeks public input on the following amendments:

- Whether to amend Section 206 of the Charter regarding the removal of a County Executive for the additional reasons of serious misconduct in office or willful neglect of duty, provided that the willful neglect of duty must be demonstrated to have occurred for 180 consecutive days. The proposed amendment would additionally require an affirmative vote of not less than 80 percent of the County Council, in lieu of the current threshold of six of nine members of the Council. The Commission is also interested in hearing whether to amend Section 118, applicable to Councilmembers, to provide similar provisions for removal.
- Whether to amend Section 203 of the Charter so as to increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive, from the current requirement of a one-year to a three-year residency requirement. Similarly, the Commission tentatively considered, subject to review following the listening sessions, to recommend that Councilmembers meet the same three-year residency. There is currently no requirement.
- Whether to amend the Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable, as was possible in the 2020 election when two diametrically opposing proposals as to the composition of the County Council were on the ballot. The Commission has tentatively proposed, subject to revision after the listening sessions, that in such an instance only the amendment that receives the higher number of favorable votes would take effect.

In addition to Dec. 11, two in-person listening sessions will be held at the following times and locations, subject to being changed to virtual sessions due to inclement weather or should buildings be closed due the Covid-19 emergency:

- Wednesday, Jan. 19, 2022 at 6 p.m., in the Council Office Building Lecture Hall (located on the first floor) in Rockville.
- Wednesday, Feb. 9, 2022 at 6 p.m., in the Upcounty Regional Services Center in Germantown.

If you would like to pre-register to speak at the in-person listening sessions, please sign up using the links for Jan. 19 ([sign up here](#)) or Feb. 9 ([sign up here](#)).

If you have a prepared statement, which is not necessary, please bring courtesy copies to share with the Commissioners or email the statement to [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If you would like to participate in the virtual sessions, you must preregister at least two business days in advance of the listening sessions scheduled on Dec. 11 ([sign up here](#)), or you may call 240-777-7905. If you have not preregistered, the Commission cannot guarantee that you will be able to speak at the session.

All speakers will be provided three minutes each to speak. If an individual has spoken at a previous listening session, he or she will be placed at the end of the queue to speak again.

Members of the public also are welcome to submit written comments to the Charter Review Commission at [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If a listening session is canceled due to inclement weather, please submit your written comments to the above email address. Emergency closure information is available at <https://www.montgomerycountymd.gov/cupf/info-cupf/emergency.html>.

*Release ID: 21-497*

*Media Contact: Stephen Mathany,*

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**Council Public Hearings:** Community members are encouraged to participate in all Council public hearings and there are multiple ways to provide testimony including live virtual testimony, in-person testimony, prerecorded audio or video testimony or written testimony. The Council is recommending that residents, who choose to attend in-person Council meetings, get fully vaccinated to protect themselves and others against Covid-19. If this is not possible, virtual participation is encouraged.

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## Press Releases

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# Sign Up to Speak at the Montgomery County Charter Review Commission Virtual Listening Session on Nov. 3 at 7 p.m.

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**For Immediate Release: Tuesday, November 2, 2021**

**Rockville, Maryland, Monday, Nov. 1, 2021** — The Montgomery Charter Review Commission will hold five listening sessions with the public between Nov. 3, 2021 and Feb. 9, 2022 to receive input as to three potential Charter amendments.

The first session will be held on Wednesday, Nov. 3 at 7 p.m. Please sign up to speak. The meeting will also be open for members of the public to join as an observer. Watch the meeting as an observer.

Additional details on the potential amendments and future listening sessions are provided below.

The first three listening sessions in Nov. and Dec. 2021 will be held virtually. The last two sessions are tentatively scheduled to be held in person during January and Feb. 2022. However, should circumstances change due to inclement weather or the COVID-19 pandemic, notice will be provided that the in-person sessions will change to virtual sessions.

The Montgomery County Charter is the constitution of the Montgomery County government. As provided in the Charter, the Charter Review Commission is an eleven-member body appointed by the County Council to study and recommend changes to the Charter. These recommendations may lead to proposed amendments

being placed on the ballot to be voted upon by registered voters.

The Commission has tentatively considered and seeks public input on the following amendments:

- Whether to amend Section 206 of the Charter regarding the removal of a County Executive for the additional reasons of serious misconduct in office or willful neglect of duty, provided that the willful neglect of duty must be demonstrated to have occurred for 180 consecutive days. The proposed amendment would additionally require an affirmative vote of not less than 80 percent of the County Council, in lieu of the current threshold of six of nine members of the Council. The Commission is also interested in hearing whether to amend Section 118, applicable to Councilmembers, to provide similar provisions for removal.
- Whether to amend Section 203 of the Charter so as to increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive, from the current requirement of one year to a three-year residency requirement. Similarly, the Commission tentatively considered, subject to review following the listening sessions, to recommend that Councilmembers meet the same three-year residency. There is currently no requirement.
- Whether to amend the Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable, as was possible in the 2020 election when two diametrically opposing proposals as to the composition of the County Council were on the ballot. The Commission has tentatively proposed, subject to revision after the listening sessions, that in such an instance only the amendment that receives the higher number of favorable votes would take effect.

Three remote virtual listening sessions will be held on the following dates and times:

- Wednesday, Nov. 3, 2021 at 7 p.m.
- Sunday, Nov. 14, 2021 at 2 p.m.
- Saturday, Dec. 11, 2021 at 10 a.m.

If you would like to pre-register to speak at the virtual listening sessions, please sign up using the links for Nov. 3 ([sign up here](#)), Nov. 14 ([sign up here](#)) or Dec. 11 ([sign up here](#)).

In addition, two in-person listening sessions will be held at the following times and locations, subject to being changed to virtual sessions due to inclement weather or should buildings be closed due the Covid 19 emergency:

- Wednesday, Jan. 19, 2022 at 6 p.m., in the Council Office Building Lecture Hall (located on the first floor) in Rockville
- Wednesday, Feb. 9, 2022 at 6 p.m., in the Upcounty Regional Services Center in Germantown

If you would like to pre-register to speak at the in-person listening sessions, please sign up using the links for Jan. 19 ([sign up here](#)) or Feb. 9 ([sign up here](#)).

If you have a prepared statement, which is not necessary, please bring courtesy copies to share with the Commissioners or email the statement to [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).






If you would like to participate in one of the three remote virtual sessions, you must preregister at least 2 business days in advance of the listening sessions scheduled on Nov. 3 (sign up here), Nov. 14 (sign up here) or Dec. 11 (sign up here), or you may call 240-777-7905. If you have not preregistered, the Commission cannot guarantee that you will be able to speak at the session.

All speakers will be provided 3 minutes each to speak. If one has spoken at a previous listening session, he or she will be placed at the end of the queue to speak again.

Members of the public also are welcome to submit written comments to the Charter Review Commission at [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If a listening session is canceled due to inclement weather, please submit your written comments to the above email address. Emergency closure information.

*Release ID: 21-438*  
*Media Contact: Stephen Mathany,*

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**Council Public Hearings:** Community members are encouraged to participate in all Council public hearings and there are multiple ways to provide testimony including live virtual testimony, in-person testimony, prerecorded audio or video testimony or written testimony. The Council is recommending that residents, who choose to attend in-person Council meetings, get fully vaccinated to protect themselves and others against Covid-19. If this is not possible, virtual participation is encouraged.

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# Montgomery County Charter Review Commission to Hold Virtual and In-Person Public Listening Sessions on Three Potential Charter Amendments

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**For Immediate Release: Friday, October 22, 2021**

**Rockville, Maryland, Friday, Oct. 22, 2021** — The Montgomery Charter Review Commission will hold five listening sessions with the public between Nov. 3, 2021 and Feb. 9, 2022 to receive input as to three potential Charter amendments. Additional detail on the potential amendments is provided below.

The first three listening sessions in November and December 2021 will be held virtually. The last two sessions are tentatively scheduled to be held in person during January and February 2022. However, should circumstances change due to inclement weather or the COVID-19 pandemic, notice will be provided that the in-person sessions will change to virtual sessions.

The Montgomery County Charter is the constitution of the Montgomery County government. As provided in the Charter, the Charter Review Commission is an eleven-member body appointed by the County Council to study and recommend changes to the Charter. These recommendations may lead to proposed amendments being placed on the ballot to be voted upon by registered voters.

The Commission has tentatively considered and seeks public input on the following amendments:



- Whether to amend Section 206 of the Charter regarding the removal of a County Executive for the additional reasons of serious misconduct in office or willful neglect of duty, provided that the willful neglect of duty must be demonstrated to have occurred for 180 consecutive days. The proposed amendment would additionally require an affirmative vote of not less than 80 percent of the County Council, in lieu of the current threshold of six of nine members of the Council. The Commission is also interested in hearing whether to amend Section 118, applicable to Councilmembers, to provide similar provisions for removal.
- Whether to amend Section 203 of the Charter so as to increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive, from the current requirement of one year to a three-year residency requirement. Similarly, the Commission tentatively considered, subject to review following the listening sessions, to recommend that Councilmembers meet the same three-year residency. There is currently no requirement.
- Whether to amend the Charter to clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable, as was possible in the 2020 election when two diametrically opposing proposals as to the composition of the County Council were on the ballot. The Commission has tentatively proposed, subject to revision after the listening sessions, that in such an instance only the amendment that receives the higher number of favorable votes would take effect.

Three remote virtual listening sessions will be held on the following dates and times:

- Wednesday, Nov. 3, 2021 at 7 p.m.
- Sunday, Nov. 14, 2021 at 2 p.m.
- Saturday, Dec. 11, 2021 at 10 a.m.


If you would like to pre-register to speak at the virtual listening sessions, please sign up using the links for Nov. 3 ([sign up here](#)), Nov. 14 ([sign up here](#)) or Dec. 11 ([sign up here](#)).

In addition, two in-person listening sessions will be held at the following times and locations, subject to being changed to virtual sessions due to inclement weather or should buildings be closed due the Covid 19 emergency:

- Wednesday, Jan. 19, 2022 at 6 p.m., in the Council Office Building Lecture Hall (located on the first floor) in Rockville
- Wednesday, Feb. 9, 2022 at 6 p.m., in the Upcounty Regional Services Center in Germantown

If you would like to pre-register to speak at the in-person listening sessions, please sign up using the links for Jan. 19 ([sign up here](#)) or Feb. 9 ([sign up here](#)).

If you have a prepared statement, which is not necessary, please bring courtesy copies to share with the Commissioners or email the statement to [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If you would like to participate in one of the three remote virtual sessions, you must preregister at least 2 business days in advance of the listening sessions scheduled on Nov. 3 ([sign up here](#)), Nov. 14 ([sign up here](#)) or Dec. 11 ([sign up here](#)), or you may call 240-777-7905. If you have not preregistered, the Commission 

cannot guarantee that you will be able to speak at the session.

All speakers will be provided 3 minutes each to speak. If one has spoken at a previous listening session, he or she will be placed at the end of the queue to speak again.

Members of the public also are welcome to submit written comments to the Charter Review Commission at [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If a listening session is canceled due to inclement weather, please submit your written comments to the above email address. Emergency closure information is available at

<https://www.montgomerycountymd.gov/cupf/info-cupf/emergency.html>. *Release ID: 21-421*

*Media Contact: Stephen Mathany,*

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Listening Session Video Link:

<https://www.montgomerycountymd.gov/crc/videos.html>

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, June 10, 2020**

**8:00 a.m.**

#### **Remote Microsoft Teams Meeting**

[Join Microsoft Teams Meeting](#)

[+1 443-692-5768](#) United States, Baltimore (Toll)

Conference ID: 637 526 215#

**(Times are approximate)**

- 8:00 a.m. ADMINISTRATIVE ITEMS
- Acknowledgement of Quorum
  - Adoption of Agenda
  - Approval of Minutes of May 13, 2020
- 8:05 a.m. FINAL REVIEW/EDITS OF MAJORITY/MINORITY REPORTS, BY THOSE WHO VOTED IN THE MAJORITY AND MINORITY, RESPECTIVELY
- 9:10 a.m. MOTION TO TRANSMIT COMPLETE REPORT TO COUNTY COUNCIL
- 9:15 a.m. REMINDERS:
- June 23, 2020: Presentation of the CRC Report at a County Council meeting
  - Next meeting: July 8, 2020. Topic: Brainstorming of issues to address in the future
- 9:30 a.m. ADJOURN

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**CHARTER REVIEW COMMISSION**  
**Wednesday, June 10, 2020 – 8:00 a.m.**  
**Remote - Microsoft Teams Meeting**  
**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Perry Paylor Christopher Danley Katherine Gugulis David Hill Larry Lauer Ronald Stubblefield Susan Miles  <b>Commission Members Not Present:</b> Nichole Thomas Courtney Walker	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:00 a.m.

**I. Opening Remarks**

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the May 13, 2020 meeting were adopted without objection.

**II. Motions – Submission of Final 2020 Report to Council**

Commission Members discussed final drafts of the Commission’s 2020 Report to the County Council. Commission Members voted (9-0) to submit the Commission’s 2020 report to the County Council.

**III. Conclusion**

Mr. Margolies will present the Commission’s report to the Council on June 23, 2020. Mr. Danley will present the minority statement contained within the report.

The next meeting is scheduled for September 9, 2020 at 8:00 a.m.

Meeting adjourned at 9:30 a.m.

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, September 9, 2020**

**8:00 a.m.**

#### **Remote Microsoft Teams Meeting**

[Join Microsoft Teams Meeting](#)

[+1 443-692-5768](#) United States, Baltimore (Toll)

Conference ID: 912 244 246#

**(Times are approximate)**

8:00 a.m.

#### **ADMINISTRATIVE ITEMS**

- Acknowledgement of Quorum
- Adoption of Agenda
- Approval of Minutes of June 10, 2020

8:05 a.m.

**REVIEW OF TWO PROPOSED CHARTER AMENDMENTS PLACED ON THE BALLOT (AS QUESTIONS C AND D) TO CHANGE THE STRUCTURE OF THE COUNTY COUNCIL**

**REVIEW OF TWO PROPOSED CHARTER AMENDMENTS PLACED ON THE BALLOT (AS QUESTIONS A AND B) TO AMEND SECTION 305 AS TO THE LEVYING OF PROPERTY TAXES**

8:15 a.m.

**INITIAL DISCUSSION OF POTENTIAL TOPICS FOR COMMISSION TO CONSIDER THIS TERM (TO BE CONTINUED NEXT MEETING):**

- Suggestions from County Councilmembers:
  - Electing the Council President at large by the voters
  - Electing at-large Council members by quadrants with a residency requirement (assuming the charter amendment to eliminate the at-large seats does not pass)
- George's proposal (as stated in his email of 7/10/20) to review Section 203 with an eye toward increasing the length of time that an individual must reside in the County to qualify to serve as County Executive (currently one year).
- Others?

#### **REMINDERS:**

- September 15, 2020 (1:30 p.m.) public hearing on Council Bill 31-20 (Amendments to Public Campaign Financing)
- Next meeting: October 14, 2020. Topic: Continued Discussion of Potential Topics to Consider this Term



**9:30 a.m.**

**MOTION TO ADJOURN**

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**CHARTER REVIEW COMMISSION**  
**Wednesday, September 9, 2020 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas  <b>Commission Members Not Present:</b> Courtney Walker Susan Miles	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:06 a.m.

**I. Opening Remarks**

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the June 10, 2020 meeting were adopted without objection.

**II. Discussion about 2020 Ballot Questions on Charter Amendments**

The Commission discussed with staff ballot questions that will appear on the 2020 general election ballot. The discussion of questions included:

1. Question A. Question A, spearheaded by Councilmember Friedson, would prohibit the Council (under Section 305) from raising the property tax rate above the prior year's rate, unless Councilmembers unanimously approve the increase.
2. Question B. Question B, the result of a citizen petition, would prohibit the Council from setting a property tax rate that would raise revenues above the prior year's revenues plus inflation.
3. Question C. Question C, spearheaded by Councilmember Glass, would alter the composition of the County Council to consist of 7 district members and 4 at-large members.

4. Question D. Question D, the result of a citizen petition, would alter the composition of the County Council to consist of 9 district members.

### **III. Discussion about Topics to be Studied by the Commission for its 2022 Report**

The Commission discussed potential topics for study, including the following:

1. Whether to make the Council President an elected position (a topic mentioned by Councilmembers);
2. Whether to have residency requirements for at-large Councilmembers (a topic mentioned by Councilmembers);
3. Whether to increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive under Section 203 (a topic suggested by Mr. Margolies);
4. Whether to amend Section 111 to require 90-days advance public notice before enacting any legislation (a topic suggested by Ms. Gugulis);
5. Whether to amend Sections 206 and 118 regarding the removal from office of elected officials (a topic suggested by Mr. Stubblefield);
6. Whether Section 510 should be amended to provide that unions may not be involved in disciplinary actions and public safety policies (a topic suggested by Mr. Lauer);
7. Whether to amend Section 213 to make the position of County Attorney elected (a topic suggested by Mr. Danley);
8. Whether to amend Section 101 regarding the Council's role as the Board of Health, and to require the Board of Health to consist of health professionals (a topic suggested by Ms. Gugulis); and
9. Whether to amend the Charter to establish school-choice vouchers or charter schools (a topic suggested by Ms. Gugulis).

### **IV. Conclusion**

Mr. Margolies informed Members that a public hearing on Council Bill 31-20 – regarding amendments to public campaign financing – would be held on September 15, 2020 at 1:30 p.m.

Mr. Margolies reminded Members that the next Commission meeting is scheduled for October 14, 2020. The topic of the meeting will be a continuation of the discussion about which topics the Commission should study next.

Meeting adjourned at 9:30 a.m.

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, October 14, 2020**

**8:00 a.m.**

**Remote Microsoft Teams Meeting**

[Join Microsoft Teams Meeting](#)

+1 443-692-5768 United States, Baltimore (Toll)

Conference ID: 287 526 37#

**(Times are approximate)**

- 8:00 a.m.**      **ADMINISTRATIVE ITEMS**
- Acknowledgment of Quorum
  - Adoption of Agenda
  - Approval of Minutes of September 9, 2020
- 8:05 a.m.**      **DISCUSSION OF ANY ADDITIONAL SUGGESTIONS OF POTENTIAL TOPICS FOR COMMISSION TO CONSIDER THIS TERM**
- 9:00 a.m.**      **DETERMINATION OF WHICH TOPICS TO BE CONSIDERED THIS TERM (EITHER BY CONSENSUS OR BY VOTE)**
- 9:25 a.m.**      **REMINDER:**
- Next meeting: November 11, 2020.
  - Topic for the next meeting: Continued determination of topics to consider and/or preliminary workplan to address topics chosen to consider
- 9:30 a.m.**      **MOTION TO ADJOURN**

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**CHARTER REVIEW COMMISSION**  
**Wednesday, October 14, 2020 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas Susan Miles  <b>Commission Members Not Present:</b> Courtney Walker	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:04 a.m.

**I. Opening Remarks**

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the September 9, 2020 meeting were adopted with a correction.

**II. Discussion of Additional Items for Study**

Members discussed the following additional items for potential study:

- Removal of Councilmembers or the County Executive by voter recall (suggested by Mr. Danley);
- Requiring the Council to hold a public hearing before placing an item on the ballot by resolution (suggested by Mr. Lauer); and
- Clarification under Section 513 of what happens when two ballot questions cancel each other out (suggested by Ms. Goddeeris).

**III. Identification of Topics for Study**

Members determined by consensus to study:

1. Clarification under Section 513 of what happens when two ballot questions approved by the voters are irreconcilable;
2. Lengthening the residency requirement, and increasing the age requirement, for the County Executive;
3. Grounds for removal of County Executive; and
4. Voter recall of Councilmembers or the County Executive.

Members also discussed that they would revisit the list of topics after the November 3<sup>rd</sup> election. Mr. Hill mentioned the possible addition of the topic of electing the Council President.

Ms. Gugulis suggested that Section 111 should be amended to require 90 days advance public notice of legislation. Mr. Paylor, Mr. Hill, and Mr. Margolies did not agree that the item should be studied, although Mr. Hill stated that he would support looking into the time period for public comment regarding potential Charter amendments. Mr. Danley and Ms. Goddeeris supported looking at the issue of public notice for legislation and Charter amendments. There was no consensus on adding the topic to the list.

Mr. Margolies stated that at the next meeting, the Commission will reiterate the four selected topics, see if any topics need to be added, and tackle a work plan about how to address the topics.

Mr. Margolies informed the Commission that the Council is advertising for positions on the Redistricting Commission, with an application due date of October 26. Mr. Margolies also noted that Baltimore City will vote on whether to create a Charter Review Commission for the City.

The next meeting will be on November 18 at 8 a.m.

Meeting adjourned at 9:30 a.m.

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, November 18, 2020**

**8:00 a.m.**

**Remote Microsoft Teams Meeting**

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 443-692-5768,,409033998#](#) United States, Baltimore

Phone Conference ID: 409 033 998#

**(Times are approximate)**

**8:00 a.m.      ADMINIISTRATIVE ITEMS**

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of October 14, 2020

**8:05 a.m.      ADVERTISEMENT OF COMMISSION VACANCY**

**8:15 a.m.      REVIEW OF CHARTER AMENDMENTS ENACTED ON NOVEMBER 3, 2020, WITH EFFECTIVE DATES**

- Question A – Amendments to Section 305 – Effective December 3, 2020
- Question C – Amendments to Composition of the Council – Effective December 3, 2020. However, per Section 513, “Any amendment to this Charter that increases or decreases the number of members of the County Council, or alters the provisions for election of the members of the Council, shall initially apply to the members of the Council elected at the next election after the adoption of the Charter amendment.” Therefore, the altered Council structure will apply beginning in the 2022.

**8:30 a.m.      DELIBERATION AS TO WORKPLAN TO ADDRESS TOPICS CHOSEN BY CONSENSUS AT LAST MEETING**

1. Clarification of what happens when two ballot questions approved by the voters are irreconcilable (Section 513);
2. Lengthening the residency requirement, and increasing the age requirement, for the County Executive (Section 203);
3. Grounds for removal of County Executive (Section 206); and
4. Voter recall of Councilmembers or the County Executive (new section(s); or revisions to Sections 118 and 206).

**9:25 a.m.** REMINDER: Next meeting: December 9, 2020

**9:30 a.m.** MOTION TO ADJOURN

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>



**CHARTER REVIEW COMMISSION**  
**Wednesday, November 18, 2020 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas  <b>Commission Member Not Present:</b> Susan Miles (technical difficulties joining the meeting)	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:06 a.m.

**I. Opening Remarks**

Mr. Margolies acknowledged the presence of a quorum. The agenda was adopted without objection. The minutes of the October 14, 2020 meeting were adopted without objection.

Mr. Margolies reminded members that the Council is seeking applicants to fill the vacancy on the Commission.

**II. Review of Charter Amendments Adopted on November 3, 2020, with Effective Dates**

The members reviewed Question A of the 2020 general election, which amended Section 305 of the Charter. The amendments to Section 305 will take effect on December 3, 2020.

The members reviewed Question C, regarding the composition of the Council. The amendments take effect on December 3, 2020. However, per Section 513, “Any amendment to this Charter that increases or decreases the number of members of the County Council, or alters the provisions for election of the members of the Council, shall initially apply to the members of the Council elected at the next election after the adoption of the Charter amendment.” Therefore, the altered Council structure will apply beginning in the 2022.

### **III. Discussion of Work Plan and Topics**

The Commission members reviewed the following topics, which they had agreed by consensus to study.

1. Clarification of what happens when two ballot questions approved by the voters are irreconcilable (Section 513);
2. Lengthening the residency requirement, and increasing the age requirement, for the County Executive (Section 203);
3. Grounds for removal of County Executive (Section 206); and
4. Voter recall of Councilmembers or the County Executive (new section(s); or revisions to Sections 118 and 206).

Mr. Hill asked whether the topic of an elected Council President should be added to the list of topics. Mr. Lauer suggested that the topic should be considered by the next Commission. Mr. Margolies noted that the 2014 Commission report addressed the topic in depth, and he asked staff to provide supplemental information prior to the next Commission meeting.

The members considered whether to study residency requirements for at-large Councilmembers, but determined by consensus that it would be premature to consider the topic, given that the Council composition will change in 2022.

Mr. Lattner noted that a Charter amendment providing for the recall of elected officials within the County likely would be unconstitutional under Maryland Constitution, Article XVI (Quadrennial Elections).

Members determined to take up topics of study as a committee of the whole. The first topic for consideration will be the issue of irreconcilable Charter amendments.

### **IV. Conclusion**

Mr. Margolies reminded Members that the next Commission meeting is scheduled for December 9, 2020.

Meeting adjourned at 9:07 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**CHARTER REVIEW COMMISSION**  
**Wednesday, December 9, 2020 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas Susan Miles	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:03 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for November 18, 2020 were approved without objection.

**II. CONTINUANCE OF DELIBERATING WHETHER TO ADD TOPICS TO THE COMMISSION’S WORKPLAN**

Commission members discussed whether to add to their workplan the issue of whether the Council President should be elected at-large. Mr. Danley and Ms. Gugulis opposed adding the topic because it has been studied by the last several Commissions. Ms. Miles, Dr. Thomas, and Mr. Paylor favored studying other issues instead. Therefore, there was no consensus to take up the topic of an elected Council President.

Mr. Danley moved to add to the workplan an issue suggested by Councilmember Navarro: whether at-large Councilmembers should reside in different regions of the County. Mr. Hill and Mr. Paylor expressed that the issue would be too confusing to voters. Mr. Margolies added that the issue is premature because of recent changes to the Council membership. Ms. Goddeeris and Mr. Lauer also opposed studying the issue at this time.

Dr. Thomas stated that the District of Columbia has both quadrants and districts, and that a similar approach in the County would not be confusing and could increase representation. In favor of Mr. Danley’s motion to add the issue to the workplan were Ms. Gugulis and Dr. Thomas. Opposed were Mr. Hill, Mr. Lauer, Ms. Goddeeris, Mr. Paylor, Mr. Stubblefield, Mr.

Margolies, and Mr. Danley. Ms. Miles abstained. Therefore, the motion failed (2 in favor -7 against – 1 abstention)

### **III. CONSIDERATION OF TOPICS AGREED UPON BY CONSENSUS**

The Commission members discussed their first topic: Clarification of what happens when two ballot questions approved by the voters are irreconcilable.

Ms. Goddeeris discussed the topic and pointed to sample language of Anne Arundel County. The proposal would be that if there are conflicting Charter amendments approved by the voters, the one with the most favorable votes wins. Mr. Margolies stated that Missouri and Nevada have similar provisions in their constitutions.

Mr. Lattner pointed out that, even with a provision on conflicting amendments, there still might be litigation over whether particular amendments truly conflict with each other or could be harmonized.

Mr. Margolies asked staff to draft potential Charter amendment language for the Commission's consideration at its next meeting.

Commission members began a discussion of their second topic: Lengthening the residency requirement, and increasing the age requirement, for the County Executive.

Regarding increasing the 1-year residency requirement: Mr. Margolies expressed that 1 year was too short and pointed out that Prince George's County has a 5-year requirement, Anne Arundel County has a 4-year requirement, and Frederick County has a 2-year requirement. Mr. Hill, Mr. Lauer, and Ms. Gugulis were inclined to favor a 5-year residency requirement, both for the Executive and Councilmembers. Dr. Thomas suggested considering a 5-year requirement cumulatively over the prior 7 years. Mr. Paylor favored a 3-year residency requirement.

Regarding an age requirement for the Executive, Mr. Margolies stated that Prince George's and Frederick Counties have no age requirement. Anne Arundel, Harford, and Baltimore Counties requires a minimum age of 25. Mr. Hill stated his opinion that the Executive should be at least 35 years old to have sufficient life experiences for the position. Dr. Thomas stated that Joe Biden became a senator at 29 and did a fine job. Ms. Godderris and Ms. Miles agreed with Dr. Thomas's point and were not supportive of an age requirement. Mr. Lauer stated that the requirement should be 30 years.

### **IV. CONCLUSION**

Mr. Margolies reminded the Commission that the next meeting is scheduled for January 13, 2021. The topic will be continued deliberation on topics agreed upon by consensus. The meeting adjourned at 9:30 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, January 13, 2021**

**8:00 a.m.**

**Remote Microsoft Teams Meeting**

**Join on your computer or mobile app**

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 443-692-5768,,839512215#](#) United States, Baltimore

Phone Conference ID: 839 512 215#

**(Times are approximate)**

8:00 a.m. ADMINISTRATIVE ITEMS

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of December 9, 2020

8:05 a.m. IRRECONCILABLE BALLOT QUESTIONS:

- Vote to recommend specific language of draft charter amendment, subject to revision after future listening session(s):

If, at a congressional or general election held during or after 2022, voters approve Charter amendments containing provisions so inconsistent that only one can be given effect, only the amendment that receives the higher number of favorable votes must take effect and amend the Charter.

8:30 a.m. COUNTY EXECUTIVE AND/OR COUNCILMEMBER RESIDENCY QUALIFICATIONS:

8:55 a.m. NEXT TOPIC AGREED UPON BY CONSENSUS TO BE CONSIDERED:

- Grounds for removal of County Executive (Section 206)

9:25 a.m. REMINDER: Next meeting: February 10, 2021

- Topic: Additional issues for Commission to consider.

9:30 a.m. MOTION TO ADJOURN

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**CHARTER REVIEW COMMISSION**  
**Wednesday, January 13, 2021 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas Susan Miles	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:05 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for December 9, 2020 were approved without objection.

**II. POTENTIAL CHARTER AMENDMENT REGARDING  
IRRECONCILIBLE CHARTER AMENDMENTS**

The Commission considered the following potential Charter amendment to address situations in which irreconcilable Charter amendments are approved during the same election.

If, at a congressional or general election held during or after 2022, voters approve Charter amendments containing provisions so inconsistent that only one can be given effect, only the amendment that receives the higher number of favorable votes must take effect and amend the Charter.

Mr. Hill and Ms. Goddeeris moved to approve the language tentatively, subject to input from the public. Mr. Lauer proposed removing the language “during or” from the first line of the amendment. The Commission members unanimously agreed to recommend the language proposed above, with the amendment suggested by Mr. Lauer. The recommended language, subject to public input, is:

If, at a congressional or general election held after 2022, voters approve Charter amendments containing provisions so inconsistent that only one can be given



effect, only the amendment that receives the higher number of favorable votes must take effect and amend the Charter.

### **III. POTENTIAL CHARTER AMENDMENT TO ALTER RESIDENCY REQUIREMENTS FOR THE COUNTY EXECUTIVE AND COUNCILMEMBERS**

Mr. Perry suggested that the residency requirement for individuals to qualify to run for the positions of County Executive or Councilmember should be 3 years. Ms. Thomas moved, with a second from Mr. Stubblefield, to recommend a requirement of 3 years cumulatively over a 5-year period.

Ms. Goddeeris raised a question about whether the proposal of reviewing years cumulatively would be difficult to administer. Mr. Margolies agreed and suggested a 3-year requirement, without a “cumulative” component.

Mr. Hill, seconded by Mr. Perry, moved to recommend a 3-year requirement for the County Executive and the Councilmembers. Mr. Danley, seconded by Ms. Gugulis, moved to recommend a 5-year requirement for the County Executive and the Councilmembers.

After discussion, a majority of Commission members voted in favor of Mr. Hill’s proposal to recommend (subject to public input) a 3-year residency requirement for both the County Executive and the Councilmembers.

Voting in favor of the 3-year requirement were Mr. Hill, Mr. Paylor, Mr. Stubblefield, Mr. Margolies, Ms. Goddeeris, and Mr. Lauer. Mr. Danley and Ms. Gugulis supported the option of a 5-year requirement, and Ms. Miles abstained.

### **IV. DISCUSSION OF THE GROUNDS FOR REMOVAL OF THE COUNTY EXECUTIVE AND COUNCILMEMBERS**

Mr. Stubblefield introduced the topic of whether to expand the grounds under the Charter for removing the County Executive and Councilmembers.

Mr. Lattner noted that the topic previously was considered by a Charter Review Commission in 2014. Mr. Lattner advised that the Charter could be amended regarding the grounds to impeach a County Executive or Councilmember. However, pursuant to an opinion of the Attorney General, a voter recall of county elected officials would be incompatible with the Maryland Constitution.

Ms. Gugulis expressed that expanding grounds for impeachment is a slippery slope; she would prefer a recall provision. Ms. Miles also expressed concern that impeachment could be used as a political weapon.

Mr. Margolies noted that Section 206 of the Charter already allows for impeachment based upon physical or mental disability; he believes that the grounds should be expanded to include misconduct in office and neglect of duty, as is the case in Baltimore City

Mr. Stubblefield stated that he would bring specific language regarding the grounds for removing the County Executive to the next meeting for the Commission's consideration.

## **V. CONCLUSION**

Mr. Margolies reminded the Commission that the next meeting is scheduled for February 10, 2021. The topic for the next meeting will be a continuation of the discussion about the grounds for removal of the County elected officials. The meeting adjourned at 9:27 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

## AGENDA

### CHARTER REVIEW COMMISSION

**Wednesday, February 10, 2021**

**8:00 a.m.**

**Microsoft Teams Meeting**

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

+1 443-692-5768,738154581# United States, Baltimore

Phone Conference ID: 738 154 581#

**(Times are approximate)**

- 8:00 a.m.      I.      ADMINISTRATIVE ITEMS
- Acknowledgement of Quorum
  - Adoption of Agenda
  - Approval of Minutes of January 13, 2021
- 8:05 a.m.      II.      DISCUSSION OF GROUNDS FOR REMOVAL OF COUNTY EXECUTIVE AND COUNCIL MEMBERS
- Vote whether to accept specific language of draft charter amendments, subject to revision after future listening session(s). Language proposed by Mr. Stubblefield:
- Sec. 206. Removal of the County Executive.
- The County Executive may be removed from office by the affirmative vote of not less than [six members] 80% of the Council after notice and an opportunity to be heard in a public hearing and upon a finding that the County Executive: (1) is unable by reason of physical or mental disability to perform the duties of the office; or (2) has committed misconduct in office or willful neglect of duty. Willful neglect of duty must be demonstrated to have occurred for 180 consecutive days. The decision of the Council may be appealed by the County Executive within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make de novo determinations of fact. The County Executive also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland.
- Note: Parallel language could be adopted for the removal of Councilmembers under Section 118 of the Charter.

- 9:00 a.m.      III.      DISCUSSION OF ADDITIONAL TOPICS COMMISSION MEMBERS MIGHT WISH TO CONSIDER (NOT PREVIOUSLY RAISED THIS TERM)
- 9:20 a.m.      IV.      REMINDER OF NEXT MEETING
- March 10, 2021
  - Next Topic: Topic: Determination of which additional topics to be considered this term (either by consensus or by vote)
- 9:30 a.m.      V.      ADJOURN

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**CHARTER REVIEW COMMISSION**  
**Wednesday, February 10, 2021 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas Susan Miles	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:04 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for January 14, 2021 were approved without objection.

**II. POTENTIAL CHARTER AMENDMENT REGARDING GROUNDS FOR REMOVAL OF THE COUNTY EXECUTIVE**

Mr. Stubblefield proposed the following amendment for the Commission's consideration:

Sec. 206. Removal of the County Executive.

The County Executive may be removed from office by the affirmative vote of not less than [six members] 80% of the Council after notice and an opportunity to be heard in a public hearing and upon a finding that the County Executive: (1) is unable by reason of physical or mental disability to perform the duties of the office; or (2) has committed misconduct in office or willful neglect of duty. Willful neglect of duty must be demonstrated to have occurred for 180 consecutive days. The decision of the Council may be appealed by the County Executive within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make de novo determinations of fact. The County Executive also may be suspended and removed

from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland.

Mr. Stubblefield noted that Baltimore City and Anne Arundel County have adopted similar provisions regarding removal from office. Commission members discussed the meaning of “misconduct” and whether to add “serious and repeated” to modify the term “misconduct”.

Mr. Lauer moved to modify the term “misconduct” with “serious”, and to recommend the amendment pending public input. Mr. Danley noted that the language would shift the balance of power in favor of the Council. Ms. Thomas questioned whether the removal decision could be made not solely by members of the Council. Mr. Lattner advised that a voter recall would be unconstitutional.

The Commission members approved (6-4) Mr. Lauer’s motion. In favor of the motion were Mr. Lauer, Mr. Margolies, Ms. Goodderis, Mr. Hill, Mr. Paylor, and Mr. Stubblefield. Opposed to the motion were Mr. Danley, Ms. Gugulis, Ms. Miles, and Ms. Thomas. The Commission will recommend the above-mentioned amendment – with the inclusion of the modifier “serious” to describe “misconduct” – pending public input.

The Commission decided by consensus to hold in abeyance, pending public feedback, the idea of also removing Councilmembers due to neglect or misconduct.

### **III. ADDITIONAL TOPICS, INCLUDING POLICE COLLECTIVE BARGAINING**

Mr. Lauer proposed, as a subject of study, Section 510 of the Charter related to collective bargaining with the police department. In particular, should Section 510 be amendment to preclude bargaining related to officer discipline?

Council staff noted that a number of bills pending in the General Assembly might affect the County’s ability to modify Section 510. Mr. Margolies asked staff to review state legislation.

Ms. Gugulis proposed studying whether to prohibit county employees from accepting campaign donations from anyone doing business with the county, or over which they have some regulatory authority. Mr. Lattner noted that campaign donations are exclusively under the purview of state law.

### **V. CONCLUSION**

Mr. Margolies reminded the Commission that the next meeting is scheduled for March 10, 2021. The topic for the next meeting will be a discussion of Section 510 of the Charter. The meeting adjourned at 9:21 a.m.

<p>Additional information can be found on the official CRC website at <a href="http://www.montgomerycountymd.gov/crc/">http://www.montgomerycountymd.gov/crc/</a></p>
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## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, March 10, 2021**

**8:00 a.m.**

**Microsoft Teams Meeting**

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 443-692-5768,,818873766#](#) United States, Baltimore

Phone Conference ID: 818 873 766#

**(Times are approximate)**

8:00 a.m. ADMINISTRATIVE ITEMS

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of February 10, 2021

8:05 a.m. WELCOME TO COMMISSIONER RUTH KIRINDA

8:10 a.m. CONTINUED DISCUSSION WHETHER TO RECOMMEND AMENDING SECTION 510 OF CHARTER TO PRECLUDE POLICE UNION FROM BARGAINING OVER DISCIPLINE.

Sec. 510. Collective Bargaining.

The Montgomery County Council shall provide by law for collective bargaining with binding arbitration with an authorized representative of the Montgomery County police officers. Any law so enacted shall prohibit strikes or work stoppages by police officers. (Election of 11-4-80.)

9:10 a.m. PROPOSAL BY COUNCIL'S EXECUTIVE DIRECTOR TO AMEND SECTION 109 OF CHARTER TO PROVIDE MORE FLEXIBILITY AS TO THE MANNER IN WHICH LEGISLATIVE DAYS CAN BE DESIGNATED.

Sec. 109. Sessions.

The first and third Tuesdays of each month, and such additional days as the Council may determine, are designated as days for the enactment of legislation, but the Council shall not sit for more than forty-five days in each year for the purpose of enacting legislation. When a first or third Tuesday is an official holiday, the next succeeding Tuesday business day shall be a day for the enactment of legislation....

9:25 a.m. REMINDER: Next meeting: April 14 , 2021

9:30 a.m. MOTION TO ADJOURN

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>



**CHARTER REVIEW COMMISSION**  
**Wednesday, March 10, 2021 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Ruth Kirinda Larry Lauer Perry Paylor Ronald Stubblefield Nichole Thomas Susan Miles	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:01 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for March 10, 2021 were approved without objection.

**II. WELCOMING NEW COMMISSION MEMBER**

Commission Members welcomed Ms. Kirinda to the Commission. Ms. Kirinda and other Commission Members shared information about their backgrounds.

**III. CHARTER SECTION 510 - COLLECTIVE BARGAINING REGARDING POLICE OFFICER DISCIPLINE**

Mr. Lauer recommended considering whether to amend Section 510 regarding collective bargaining. The purpose of the amendment would be to prohibit interference with internal disciplinary actions of the police department.

Ms. Gugulis asked for clarification regarding the meaning of internal disciplinary actions. Mr. Lauer discussed that unions are not public entities, but tend to dominate how disciplinary actions are taken against officers.

Members discussed that pending state legislation might affect the discipline of police officers throughout the state. Mr. Margolies suggested, and Mr. Lauer agreed, to revisit the issue once the state legislative session ends in April. Mr. Hill suggested that the Commission also

might want to contact the Policing Advisory Commission and the Reimagining Public Safety Task Force about the issue of officer discipline.

#### **IV. CHARTER SECTION 109 – LEGISLATIVE DAYS**

Members discussed a suggestion by the Council’s Executive Director to amend Section 109 to provide additional flexibility regarding the scheduling of “legislative days.” Under the state constitution, the Council must not have no more than 45 legislative days a year. Under Section 109, these legislative days generally must occur on the first and third Tuesdays of each month, even if the Council is on recess. Thus, recess days that fall on a first or third Tuesday count against the 45-day limit.

Ms. Gugulis stated that she supports the current meeting schedule with additional notice provisions. Mr. Danley requested additional information about the need for additional flexibility under Section 109. Mr. Margolies asked Council staff to return with specific suggested language and additional background information.

#### **V. CONCLUSION**

Mr. Margolies reminded the Commission that the next meeting is scheduled for April 14, 2021. The next topics will be Sections 510 and 109 and, if time allows, public listening sessions. The meeting adjourned at 9:05 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

## AGENDA

### CHARTER REVIEW COMMISSION

Wednesday, April 14, 2021

8:00 a.m.

Microsoft Teams Meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 443-692-5768,,222890372#](#) United States, Baltimore

Phone Conference ID: 222 890 372#

(Times are approximate)

- 8:00 a.m. ADMINISTRATIVE ITEMS
- Acknowledgment of Quorum
  - Adoption of Agenda
  - Approval of Minutes of March 10, 2021
- 8:05 a.m. CONTINUED DISCUSSION WHETHER TO RECOMMEND AMENDING SECTION 510 OF CHARTER TO PRECLUDE POLICE UNION FROM BARGAINING OVER DISCIPLINE IN LIGHT OF GENERAL ASSEMBLY ACTION
- 8:35 a.m. DRAFT LANGUAGE TO AMEND SECTION 109 OF CHARTER TO PROVIDE MORE FLEXIBILITY AS TO THE MANNER IN WHICH LEGISLATIVE DAYS CAN BE DESIGNATED, ADDRESSING CONCERN EXPRESSED BY COUNCIL’S EXECUTIVE DIRECTOR.

#### **POTENTIAL LANGUAGE - Section 109. Sessions.**

The first and third Tuesdays of each month, and such additional days as the Council may determine, are designated as days for the enactment of legislation, but the Council shall not sit for more than forty-five days in each year for the purpose of enacting legislation. When a first or third Tuesday is an official holiday or occurs on a day when the Council does not meet, the next succeeding the Council may designate an alternative Tuesday business day shall be a day for the enactment of legislation, provided adequate notice of such change is given pursuant to the state Open Meetings Act .....

**BACKGROUND DATA FROM COUNCIL CLERK'S OFFICE:**

YEAR	#DAYS THE COUNCIL MET	#DAYS THE COUNCIL DID NOT MEET THAT HAD TO BE COUNTED AS LEGISLATIVE DAYS	TOTAL # LEGISLATIVE DAYS FOR THE YEAR
2020	29	9	38
2019	20	9	29
2018	20	9	29
2017	23	12	35
2016	27	5	32
2015	31	6	37
2014	22	10	32
2013	27	11	38
2012	24	13	37
2011	29	9	38

Looking back to 1988, 42 legislative days were used in 1996, 40 in 2003, and 44 in 2009.

The year the Council came the closest to reaching the 45-day limit was 2009. Regarding 2009:

Legislative Day for 2009	Date
1	January 6, 2009 (not held)
2	January 13, 2009
3	January 20, 2009 (not held)
4	January 27, 2009
5	February 3, 2009 (not held)
6	February 10, 2009
7	February 17, 2009 (not held)
8	February 24, 2009
9	March 3, 2009
10	March 10, 2009
11	March 17, 2009 (Not held)
12	March 24, 2009
13	March 31, 2009
14	April 7, 2009 (Not held)
15	April 14, 2009
16	April 21, 2009
17	April 28, 2009
18	May 5, 2009
19	May 12, 2009

Legislative Day for 2009	Date
20	May 13, 2009
21	May 19, 2009 (Not held)
22	May 21, 2009
23	June 2, 2009 (Not held)
24	June 9, 2009
25	June 16, 2009
26	June 23, 2009
27	June 30, 2009
28	July 7, 2009 (Not held)
29	July 14, 2009
30	July 21, 2009 (Not held)
31	July 28, 2009
32	August 4, 2009 (Not Held)
33	August 18, 2009 (Not Held)
34	September 1, 2009 (Not Held)
35	September 15, 2009
36	September 22, 2009
37	September 29, 2009
38	October 6, 2009
39	October 13, 2009
40	October 20, 2009
41	November 3, 2009
42	November 10, 2009
43	November 17, 2009
44	December 1, 2009

9:05 a.m. TIME PERMITTING, DISCUSSION AS TO LOGISTICS OF LISTENING SESSION(S) TO CONSIDER TENTATIVE RECOMMENDATIONS AS TO CHARTER AMENDMENTS:

- Reconciling irreconcilable charter amendments
- Three-year residency requirement for County Executive and Councilmembers
- Additional grounds for removal of County Executive and, perhaps, for Councilmembers
- Flexibility in the manner in which Council legislative days are designated?

9:30 a.m. ADJOURNMENT

- REMINDER: Next meeting: May 12, 2021
- MOTION TO ADJOURN

**Additional information** can be found on the official CRC website at <http://www.montgomerycountymd.gov/crc/>

**MEETING ACCESSIBILITY POLICY:** Sign language interpreter services and other auxiliary aids or services will be provided upon request with as much advance notice as possible, preferably at least five (5) full business days before the meeting. To request any reasonable accommodation to participate in the meeting, please contact Christine Wellons at [Christine.wellons@montgomerycountymd.gov](mailto:Christine.wellons@montgomerycountymd.gov). In all situations, a good faith effort will be made to provide accommodations. For any additional questions or concerns, please contact [Christine.wellons@montgomerycountymd.gov](mailto:Christine.wellons@montgomerycountymd.gov) or MD Relay 711.

**CHARTER REVIEW COMMISSION**  
**Wednesday, May 12, 2021 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Laura Goddeeris, Vice Chair Christopher Danley Katherine Gugulis David Hill Ruth Kirinda Larry Lauer Ronald Stubblefield Nichole Thomas Susan Miles Perry Paylor	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:05 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for April 14, 2021 were approved without objection.

**II. PUBLIC LISTENING SESSIONS**

Commission members discussed plans to hold several Public Listening Sessions on potential Charter amendments. Mr. Margolies discussed various options, including options of having: (a) two sessions, one up-county and one down-county; or (b) five sessions, one in each Council district. Virtual sessions are an additional option. Mr. Margolies stated that there should be a press release regarding the sessions, and that the website should invite those who are not available to attend a session to submit written comments.

Ms. Kirinda suggested that there should be at least one session at the Council's Central Office Building. Ms. Gugulis suggested having one session in each district, in addition to having virtual sessions. Ms. Miles stated a concern that individuals might not have enough time to speak if there are fewer than five sessions. Mr. Danley suggesting holding four sessions, and Ms. Kirinda suggested a minimum of five sessions.

Commission members arrived at a consensus to hold a hybrid of in-person and virtual sessions.

Commission members voted on whether to hold five in-person sessions, one in each Council district. In favor were Ms. Gugulis, Ms. Kirinda, Ms. Thomas, Mr. Danley, and Ms. Miles. Opposed were Mr. Paylor, Ms. Goodeeris, Mr. Hill, Mr. Lauer, Mr. Margolies, and Mr. Stubblefield. Therefore, the Commission will not hold a session in each Council district.

Commission members then voted on whether to hold two in-person sessions, one up-county and one down-county. In favor were Mr. Paylor, Ms. Goddeeris, Mr. Lauer, Mr. Hill, Mr. Stubblefield, and Mr. Margolies. Opposed were Ms. Gugulis, Ms. Kirinda, Ms. Thomas, Mr. Danley, and Ms. Miles. Accordingly, the Commission will have two in-person sessions, one up-county and one down-county.

The Commission members then discussed how many virtual sessions to hold. After discussion, Ms. Kirinda moved to hold three virtual sessions. Mr. Lauer seconded the motion. There was no dissent.

Therefore, the Commission will hold five sessions, consisting of: (a) three virtual sessions; and (b) one in-person session up-county; and (c) one in-person session down-county. Commission members discussed that the sessions should be spaced apart starting this fall, and that at least one in-person session should occur on a weekend. Ms. Miles requested that one session occur on a Sunday afternoon.

### **III. VIDEOTAPING OF COMMISSION MEETINGS**

Commission members continued their discussion of the potential of videotaping Commission meetings. Ms. Miles supported the idea of audio recording. Ms. Gugulis, Ms. Kirinda, and Ms. Thomas supported videotaping. Mr. Hill opposed videotaping or audiotaping. Commission members asked staff for more information on options at the next meeting.

### **IV. CONCLUSION**

Mr. Margolies reminded the Commission that the next meeting is scheduled for June 9, 2021. The meeting adjourned at 9:32 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

## AGENDA

### CHARTER REVIEW COMMISSION

**Wednesday, June 9, 2021**

**8:00 a.m.**

**Microsoft Teams Meeting**

**Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 443-692-5768,,350160757#](#) United States, Baltimore

Phone Conference ID: 350 160 757#

**(Times are approximate)**

8:00 a.m. ADMINISTRATIVE ITEMS

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of May 12, 2021

8:05 a.m. CONTINUED DISCUSSION REGARDING VIDEOTAPING MEETINGS.

- Per Council staff:
  - There are not resources to videotape or audiotape monthly meetings.
  - Cable Montgomery will videotape the Listening Sessions.

8:15 a.m. ROUNDTABLE AMONG COMMISSIONERS TO LOOK BACK AT THIS PAST YEAR AS TO HOW THE COMMISSION CARRIED OUT ITS MISSION AND CHARGE UNDER THE CHARTER.

9:25 a.m. REMINDERS / ADJOURNMENT

- Next meeting: if consensus or majority vote for a summer recess, **September 8, 2021**. Topic: Planning for 2 in-person and 3 virtual listening sessions on the 3 proposed Charter amendments
- Reminder: Advise Christine if you can participate in Ethics Training Session on June 24<sup>th</sup> at 7 p.m.
- Motion to Adjourn

**Additional information** can be found on the official CRC website at <http://www.montgomerycountymd.gov/crc/>

**MEETING ACCESSIBILITY POLICY:** Sign language interpreter services and other auxiliary aids or services will be provided upon request with as much advance notice as possible, preferably at least five (5) full business days before the meeting. To request any reasonable accommodation to participate in the meeting, please contact Christine Wellons at [Christine.wellons@montgomerycountymd.gov](mailto:Christine.wellons@montgomerycountymd.gov). In all situations, a good faith effort will be made to provide accommodations. For any additional questions or concerns, please contact [Christine.wellons@montgomerycountymd.gov](mailto:Christine.wellons@montgomerycountymd.gov) or MD Relay 711.



**CHARTER REVIEW COMMISSION**  
**Wednesday, June 9, 2021 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Ronald Stubblefield Christopher Danley Katherine Gugulis David Hill Ruth Kirinda Nichole Thomas Susan Miles Perry Paylor  <b>Commission Member Absent:</b> Larry Lauer	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:04 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for May 12, 2021 were approved without objection.

**II. CONTINUED DISCUSSION REGARDING VIDEOTAPING COMMISSION MEETINGS**

Dr. Thomas stated her support for increased transparency through videotaped meetings. Mr. Hill stated that the Commission meets all Open Meeting Act requirements, and that Commission members were not appointed with the understanding that they would be videotaped.

Mr. Danley moved to ask the Council to provide funding to videotape all Commission meetings, beginning in September 2021. Ms. Kirinda seconded the motion. The motion passed (5-4), with favorable votes from Mr. Danley, Ms. Kirinda, Dr. Thomas, Ms. Gugulis, and Ms. Miles. Opposed to the motion were Mr. Margolies, Mr. Hill, Mr. Stubblefield, and Mr. Paylor.

**III. ROUNDTABLE DISCUSSION**

Mr. Hill noted that the Commission has done an admirable job of working through the tough issue of making recommendations regarding the Council's composition. Mr. Margolies thanked all members for participating.

Mr. Margolies noted that he has asked the County Executive's Office to fill Ms. Goddeeris's vacancy, and to designate a vice-chair of the Commission.

Ms. Kirinda thanked Mr. Margolies for his leadership.

#### **IV. CONCLUSION**

Mr. Margolies reminded the Commission that the next meeting is scheduled for September 8, 2021. The meeting adjourned at 8:44 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**CHARTER REVIEW COMMISSION**  
**Wednesday, September 8, 2021 – 8:00 a.m.**  
**Remote/Virtual Meeting via Microsoft Teams**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Ronald Stubblefield Christopher Danley Katherine Gugulis David Hill Larry Lauer Nichole Thomas Perry Paylor  <b>Commission Member Absent:</b> Susan Miles	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:05 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for June 9, 2021 were approved without objection.

**II. CONTINUED DISCUSSION REGARDING LISTENING SESSIONS**

The Commission decided to proceed with scheduling three virtual public listening sessions on:

- Wednesday, October 20, 2021, 7:00 PM
- Sunday, November 14, 2021, 2:00 PM
- Saturday, December 11, 2021, 10:00 AM

The Commission decided to tentatively schedule two in-person public listening sessions after the virtual sessions.

**III. DRAFT PRESS RELEASE REGARDING LISTENING SESSIONS**

The Commission Members reviewed a draft press release to announce the listening sessions. Ms. Gugulis stated that more thought should be given to the wording of the potential Charter amendment regarding conflicting Charter amendments approved by the voters. Mr. Margolies noted that the language was patterned after language in the Anne Arundel County

Charter. Commissioners discussed that the language can be further refined after receiving input from the public.

Mr. Lauer noted that the opening paragraph of the press release should be revised to account for the fact that some sessions will be virtual and some will be in person (tentatively). Dr. Thomas noted that the language regarding how to register for listening sessions should be clearer. Mr. Hill suggested appending the specific language of proposed amendments as a separate attachment to simplify the press release.

#### **IV. CONCLUSION**

Mr. Margolies reminded the Commission that the next meeting is scheduled for October 13, 2021. The meeting adjourned at 8:39 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

**AGENDA**  
**CHARTER REVIEW COMMISSION**

**Wednesday, October 13, 2021**  
**8:00 a.m.**

(Times are approximate)

**8:00 a.m. - ADMINISTRATIVE ITEMS**

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of September 8, 2021
- Welcome of Newest Commissioner: Galina Teverovsky

**8:05 a.m. - REVIEW SCHEDULE OF LISTENING SESSIONS**

- Virtual – Wednesday, November 3, 2021, 7:00 pm
- Virtual - Sunday, November 14, 2021, 2:00 PM
- Virtual - Saturday, December 11, 2021, 10:00 AM
- In-person – Council Office Building Lecture Hall (1<sup>st</sup> Floor) – Wednesday, Jan. 19, 6:00 p.m.
- In-person – Upcounty Regional Services Center, Germantown – Wednesday, Feb. 9, 6:00 p.m.

**8:30 a.m. - REVIEW OF DRAFT PRESS RELEASE FOR LISTENING SESSIONS**

- See draft text on following page

**9:00 a.m. – DISCUSSION OF PROCESS FOR VIRTUAL SESSIONS**

**9:30 a.m. - ADJOURNMENT**

- Next meeting: November 10, 2021 (Topic: discussion of feedback from first listening session and preparation for 11/14 listening session)
- Motion to adjourn

## ***DRAFT PRESS RELEASE***

### **Montgomery County Charter Review Commission to hold virtual and in-person public listening sessions on three potential Charter amendments**

**For Immediate Release: [ DATE ]**

Rockville, Maryland, [ Date ]- The Montgomery Charter Review Commission will hold five listening sessions with the public between **October 20, 2021** and **February 9, 2022** to receive input as to three potential Charter amendments as outlined below.

In contrast to the first three sessions, which will be virtual, the last two are tentatively scheduled to be in person. However, should circumstances dictate otherwise (e.g. inclement weather or if the current Covid 19 state of emergency continues to close access to county buildings), notice will be provided that the in-person sessions will change to virtual sessions.

The Montgomery County Charter is the constitution of the Montgomery County government. As provided in the Charter, the Charter Review Commission is an eleven-member, ~~multi-party body of County residents~~ appointed by the County Council ~~every four years~~ to study and recommend changes to the Charter. ~~The Commission reports to the Council in May of every even-numbered year with recommendations for possible Charter revisions.~~ These recommendations may lead to proposed Charter amendments placed on the ballot that are voted upon by registered voters.

The Commission has tentatively ~~as it awaits input from the public before making a final decision~~ considered – **and seeks public input on** – the following amendments:

- Whether to amend Section 206 of the Charter regarding the ***removal of a County Executive*** for the additional reasons of ***serious misconduct in office or willful neglect of duty, provided that the willful neglect of duty must be demonstrated to have occurred for 180 consecutive days.*** The proposed amendment would additionally require an affirmative vote of ***not less than 80%*** of the County Council, in lieu of the current threshold of six of nine members of the Council. The Commission is also interested in hearing whether to amend Section 118, applicable to ~~grounds for removal of~~ Councilmembers, to provide similar **additional** provisions for removal.
- Whether to amend Section 203 of the Charter so as to increase the length of time that an individual must reside in the County in order to qualify to serve as ***County Executive***, from the current requirement of one year to a ~~new~~ ***three-year residency requirement.*** Similarly, the Commission tentatively considered, subject to review following the listening sessions, to recommend that Councilmembers meet the same three-year residency **requirement** (there is none currently).
- Whether to amend the Charter to clarify what occurs ***when two questions on the ballot are both approved by the voters but are irreconcilable,*** as was possible last election when two diametrically opposing proposals as to the composition of the County Council were on the ballot. The Commission has tentatively proposed, subject to revision after the listening sessions, that in such an instance only the amendment

that receives the ~~higher-highest~~ number of favorable votes would take effect ~~and amend the Charter~~.

~~In addition, t~~Three remote virtual listening sessions will be held on the following dates and times:

- Wednesday, November 3, 2021, 7:00 pm
- Sunday, November 14, 2021, 2:00 PM
- Saturday, December 11, 2021, 10:00 AM

~~In addition, t~~Two in-person listening sessions will be held at the following times and locations, subject to being changed to virtual sessions due to inclement weather or should buildings be closed due the Covid 19 emergency:

- Council Office Building Lecture Hall (1<sup>st</sup> Floor) – Wednesday, Jan. 19, 6:00 p.m.
- Upcounty Regional Services Center, Germantown – Wednesday, Feb. 9, 6:00 p.m.

If you would like to pre-register to speak at the in-person listening sessions, please sign up [here](#).

If you have a prepared statement, which is not necessary, please bring courtesy copies to share with the Commissioners or email the statement to [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If you would like to participate in one of the three remote virtual ~~sessions~~, you must preregister at least 2 business days in advance at <https://www.montgomerycountymd.gov/boards/calendar.html?trumbaEmbed=view%3Devent%26eventid%3D156075850>, or you may call 240-777-7905. If you have not preregistered, the Commission cannot guarantee that you will be able to speak at the session.

All speakers will be provided 3 minutes each to speak. If one has spoken at a previous listening session, he or she will be placed at the end of the queue to speak again.

Members of the public also are welcome to submit written comments to the Charter Review Commission at [charterreview.commission@montgomerycountymd.gov](mailto:charterreview.commission@montgomerycountymd.gov).

If a listening session is canceled due to inclement weather, please submit your written comments to the above email address. Emergency closure information is available at <https://www.montgomerycountymd.gov/cupf/info-cupf/emergency.html>.

**CHARTER REVIEW COMMISSION**  
**Wednesday, October 15, 2021 – 8:00 a.m.**  
**Remote/Virtual Meeting via Zoom**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Ronald Stubblefield Christopher Danley Katherine Gugulis David Hill Larry Lauer Nichole Thomas Perry Paylor Galina Teverovsky  <b>Commission Member Absent:</b> Susan Miles	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:01 a.m.

**I. ADMINISTRATIVE ITEMS**

Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for September 8, 2021 were approved without objection.

The Commission Members welcomed the new Commission Member, Galina Teverovsky.

**II. CONTINUED DISCUSSION REGARDING LISTENING SESSIONS**

The Commission reviewed the following schedule for Listening Sessions:

- Virtual – Wednesday, November 3, 2021, 7:00 pm
- Virtual - Sunday, November 14, 2021, 2:00 PM
- Virtual - Saturday, December 11, 2021, 10:00 AM
- In-person – Council Office Building Lecture Hall (1<sup>st</sup> Floor) – Wednesday, Jan. 19, 6:00 p.m.
- In-person – Upcounty Regional Services Center, Germantown – Wednesday, Feb. 9, 6:00 p.m.



### **III. DRAFT PRESS RELEASE REGARDING LISTENING SESSIONS**

The Commission Members continued to review and approve a draft press release regarding the Listening Sessions.

### **IV. CONCLUSION**

Mr. Margolies reminded the Commission that the next is November 10, 2021 (Topic: discussion of feedback from first listening session and preparation for 11/14 listening session). The meeting adjourned at 8:33 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, November 10, 2021 - Canceled**  
**8:00 a.m.**

**(Times are approximate)**

#### **8:00 a.m. - ADMINISTRATIVE ITEMS**

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of October 13, 2021

#### **8:05 a.m. – DISCUSSION OF / FEEDBACK FROM NOVEMBER 3<sup>RD</sup> LISTENING SESSION**

#### **9:30 a.m. - ADJOURNMENT**

- Next virtual listening session: Sunday, November 14, 2021 at 2 p.m.
- Next meeting: December 8, 2021 at 8:00 a.m.
- Motion to Adjourn

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, February 16, 2022  
8:00 a.m.**

#### **Virtual Meeting Link:**

<https://us06web.zoom.us/j/84452768073?pwd=Q09QZnF6QmhLZ1B3MmxUZGt1NXc2UT09>

**(Times are approximate)**

#### **I. ADMINISTRATIVE ITEMS**

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of October 13, 2021
- Welcome of Newest Commissioner: Anita Cox

#### **II. DISCUSSION OF FEEDBACK FROM LISTENING SESSIONS AND WRITTEN SUBMISSIONS:**

- Lorraine Jaffee's written submission to clarify proposed amendment to Section 206 regarding the removal of County Executive
- Melissa King's written submission opposing amending Section 206 but in favor of recall option
- Mark Lautman's testimony in opposition to proposal as to irreconcilable ballot questions
- Laura Mitchell's testimony that we review Charter language that may be insensitive to mental health issues
- David Tolman's written submission to revise the manner of selecting at-large Councilmembers
- Mitsuko Herrera's testimony to clarify the votes needed to remove County Executive for cause
- Mitsuko Herrera's testimony to recommend a change to non-partisan primaries
- Mitsuko Herrera's testimony to change "County Executive" to "Mayor"

#### **III. REVIEW OF RECOMMENDED BALLOT LANGUAGE TO SUGGEST TO COUNTY COUNCIL ON ORIGINAL 3 ISSUES:**

##### **A. To clarify what occurs when two questions on the ballot are both approved by the voters but are irreconcilable:**

"If, at a congressional or general election held after 2022, voters approve Charter amendments containing provisions so inconsistent that only one can be given effect, only the amendment that receives the highest number of favorable votes must take effect and amend the Charter."

- B. To increase the length of time that an individual must reside in the County in order to qualify to serve as County Executive under Section 203 or Councilmember under Section 102:**

Section 203 Qualifications

“The County Executive shall have been a resident of Montgomery County for **[the year] three years** preceding the election or appointment, shall not be less than thirty years of age, ...”

Section 102 Composition and Election

Add a new sentence as follows: “To be elected or appointed to the Council, one shall have been a resident of Montgomery County for three years preceding the election or appointment.”

- C. To amend Sections 118 and 206 regarding the removal from office of County Executive and Councilmembers:**

Sec. 206. Removal of the County Executive

The County Executive may be removed from office by the affirmative vote of not less than **[six members] 80%** of the **current** Council **after notice and an opportunity to be heard in** a public hearing and upon a finding that the County Executive: **(1)** is unable by reason of physical or mental disability to perform the duties of the office; **or (2) has committed serious misconduct in office or willful neglect of duty. Willful neglect of duty must be demonstrated to have occurred for 180 consecutive days.** The decision of the Council may be appealed by the County Executive within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision. Upon appeal, the Court may make *de novo* determinations of fact. The County Executive also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland.

Section 118. Removal of Councilmembers

A member of the County Council may be removed from office by the affirmative vote of not less than **[six members] 80%** of the **current** Council **after notice and an opportunity to be heard in** a public hearing and upon a finding that the Councilmember: **(1)** is unable by reason of physical or mental disability to perform the duties of the office; **or (2) has committed serious misconduct in office or willful neglect of duty. Willful neglect of duty must be demonstrated to have occurred for 180 consecutive days.** The decision of the Council may be appealed by the removed Councilmember within ten days to the Circuit Court by petition. Upon the filing of a petition, the Court may stay the removal pending its decision.

Upon appeal, the Court may make *de novo* determinations of fact. A member of the County Council also may be suspended and removed from office in the manner provided in Section 2 of Article XV of the Constitution of Maryland.

#### IV. ADJOURNMENT

- Next Commission meeting: March 9, 2022 at 8:00 a.m. Topic: Review of Draft Report

**CHARTER REVIEW COMMISSION**  
**Wednesday, February 16, 2022 – 8:00 a.m.**  
**Remote/Virtual Meeting via Zoom**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Ronald Stubblefield Christopher Danley David Hill Perry Paylor Galina Teverovsky  <b>Commission Member Absent:</b> Anita Cox Susan Miles Larry Lauer Nichole Thomas Katherine Gugulis	<b>Staff Present:</b> Ed Lattner, Office of the County Attorney Christine Wellons, Office of the County Council Stephen Mathany, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:03 a.m.

**I. ADMINISTRATIVE ITEMS**

- a. Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for October 13, 2021 were approved without objection.
- b. Mr. Margolies stated that he spoke with the new Commission Member, Anita Cox.

**II. CONSIDERATION OF WRITTEN AND ORAL COMMENTS**

- a. Lorraine Jaffee– suggested clarifying the proposed amendment to section 206 regarding removal of the County Executive
  - i. Expressed concern that this Section could be used politically
  - ii. Requested that language be clarified as to what constitutes serious misconduct or willful neglect
  - iii. Mr. Margolies noted that the Commission had avoided terms like “mere incompetence” with this in mind. “Willful” neglect for 180 consecutive days would be a high bar for removal
  - iv. Mr. Stubblefield added that another safeguard was that 80% of the council would be required for removal.

- v. Ms. Teverovsky expressed a concern that if a violation takes place, the Council should not have to wait 180 for removal.
- b. **Melissa King** – expressed that language could be used to “get rid of someone the Council doesn’t agree with.” Therefore, the public should have a recall option.
  - i. Mr. Lattner had previously advised that recall is not permissible under State law.
- c. **Mark Loughtman** – Expressed opposition to proposal regarding irreconcilable ballot questions. Suggested withdrawing this recommendation.
  - i. Commission Members discussed that the irreconcilable ballot questions remain a possibility and, therefore, the Commission Members continue to support the recommendation.
- d. **Laura Mitchell** – Testified to charter language that she felt may be insensitive to those with mental health issues. Requested that the Commission review the charter language with an eye towards any language that may be insensitive to the mental health needs for those with drug and alcohol concerns. She did not have any alternative language to suggest and although she said she would email recommendations they were never received.
  - i. Mr. Margolies – since no language was sent, and upon review of Charter, suggested that this issue be left to a future Commission to decide. Mr. Stubblefield and Mr. Hill agreed.
- e. **David Tolman** – Submitted in writing a proposal to revise the manner of selecting at large Council members. This was the subject of the Commission’s 2020 report, and Commissioners stated that it was not the appropriate time to revisit the issue.
- f. **Ms. Herrera**
  - i. Suggested clarifying the votes needed to remove the County Executive for cause. Suggested adding “current” in front of Council.
    - 1. Mr. Margolies – Point is moot now that the Commission intends to specify a required number of Councilmembers instead of a percentage.
    - 2. Mr. Lattner – agreed that using a specific number instead of 80% takes care of this issue.
  - ii. Recommended that since winner of Democratic primary almost always determines the winner of the general election, and that the primary turnout is usually low, that the law be changed to move to a non-partisan primary. The two candidates with the highest votes would move on to the general election ballot.
    - 1. Mr. Lattner – stated this would require a change in state law (Section 8-202 of the Election Law Article).
  - iii. Recommended changing title of the “County Executive” to “Mayor”
    - 1. Mr. Lattner – stated that this would be impermissible under the State Constitution.

### III. DISCUSSION OF PROPOSED CHARTER REVIEW ISSUES

- a. Irreconcilable Ballot Questions
  - i. Commission approved without objection the originally proposed language.

- b. Address length of qualification to serve as County Executive
  - i. Approved without objection
- c. Removal of County Executive or Council Members
  - i. Removed 80% and replaced it with 9 Councilmembers
  - ii. Mr. Danley – asked, outside of absenteeism, what would qualify as willful neglect? Noted that he does not agree with how the language is written.

#### **IV. CONCLUSION**

- a. A draft report will be finalized and issued by Mr. Margolies. It will be reviewed at next month's meeting. The report must be submitted to the Council by May thus must be finalized by the April meeting. Corrections and edits welcomed to have finalized before the meeting.
- b. The meeting adjourned at 8:47 a.m.

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>



## **AGENDA**

### **CHARTER REVIEW COMMISSION**

**Wednesday, March 9, 2022  
8:00 a.m.**

#### **Virtual Meeting Link:**

<https://us06web.zoom.us/j/84452768073?pwd=Q09QZnF6QmhLZ1B3MmxUZGt1NXc2UT09>

**(Times are approximate)**

#### **I. ADMINISTRATIVE ITEMS**

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of February 16, 2022
- Welcome of Newest Commissioner: Anita Cox

#### **II. REVIEW OF DRAFT 2022 COMMISSION REPORT (ATTACHED)**

#### **III. ADJOURNMENT**

- Next Commission meeting: April 12, 2022 at 8:00 a.m. Topic: Final Approval of 2022 Report

**CHARTER REVIEW COMMISSION**  
**Wednesday, March 9, 2022 – 8:00 a.m.**  
**Remote/Virtual Meeting via Zoom**

**Minutes**

<b>Commission Members Present:</b> George Margolies, Chair Ronald Stubblefield Christopher Danley David Hill Perry Paylor Galina Teverovsky Anita Cox Susan Miles Larry Lauer Nichole Thomas Katherine Gugulis	<b>Staff Present:</b> Christine Wellons, Office of the County Council Stephen Mathany, Office of the County Council Marie Jean-Paul, Office of the County Council
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Commission Chair George Margolies called the meeting to order at 8:03 a.m.

**I. ADMINISTRATIVE ITEMS**

- a. Mr. Margolies acknowledged the presence of a quorum. The agenda was approved without objection. The minutes for February 16, 2022, were approved with one correction.
- b. New Commission Member Anita Cox introduced herself
- c. Schedule for remainder of term
  - i. Meeting on April 13, 2022, to approve the final Charter Review Commission Report to send to the Council
  - ii. Possible to meet in fall to discuss issues that may be relevant to the next Commission (To be decided in May)

**II. DISCUSSION AND REVIEW OF DRAFT 2022 COMMISSION REPORT**

- a. **ussion on Page 23, Section 26 – Removal of the County Executive**
  - i. Ms. Gugulis concerned about elected officials removing other elected officials and about the meaning of “misconduct” as the term is open ended. Also, removal of County Council Members mirrors this issue
  - ii. Ms. Miles agreed, and MS. Cox asked if the term “misconduct had been defined. Ms. Teverovsky asked whether there should be discipline for lesser forms of misconduct.
    1. Mr. Hill confirmed that misconduct was added to address the Baltimore City situation, where Mayor Catherine Pugh pressured people to buy her book.

- iii. Ms. Miles was concerned about due process and Ms. Cox concerned that the Council, which generally votes together as a block, could coordinate to vote out a County Executive. These concerns were shared by Ms. Thomas
- iv. Mr. Margolies stated that the previously mentioned concerns had been discussed at length in previous commission meetings and that the language had been significantly altered based on these concerns
  - 1. Ms. Thomas concerned that “groupthink” could overcome the super-majority needed to remove the County Executive. Concerned that these changes have not fully addressed the issues with the removal of the County Executive.
  - 2. Mr. Hill stated that it is unfair to assume that the Council would all vote together and that they too are accountable to the voters
  - 3. Mr. Stubblefield stated that there are already provisions in the Charter allowing for elected officials to remove other elected officials.
- v. Mr. Lauer argued that the Charter provides a distribution of power between the branches, most of which resides with the County Council. As there is sufficient ambiguity in the language, Mr. Lauer didn’t think that the removal provision was necessary.
- vi. Mr. Danley was still not comfortable with the language after the debate. Since all eleven members of the commission were present, he suggested a vote on the language. This was seconded by Mr. Hill
- vii. Vote on language on Page 23, section 26 – Removal of the County Executive
  - 1. **Yay** – Mr. Paylor, Mr. Stubblefield, Mr. Hill, Mr. Margolies
  - 2. **Nay** – Ms. Cox, Ms. Gugulis, Ms. Miles, Ms. Thomas, Mr. Danley, Mr. Lauer
  - 3. **Abstain** – Ms. Teverovsky
- viii. Language will not be included as part of the Charter Commission’s recommendations. Mr. Margolies will change the language in the report.
- ix. Mr. Hill brought up that the vote referred to the County Executive (Section 26) – is the vote the same for Section 118, County Council Members
- x. The Commission members were polled as follows
  - 1. **Aye** - Mr. Paylor, Mr. Stubblefield, Mr. Hill
  - 2. **Nay** – Ms. Gugulis, Ms. Miles, Ms. Thomas, Mr. Danley, Mr. Lauer, Mr. Margolies
  - 3. Ms. Teverovsky, Ms. Cox
- b. Page 22, regarding two irreconcilable amendments on a ballot being resolved by whichever gets the higher number of votes
  - i. Ms. Miles feels is concerned that giving the decision to a side that may get only one more vote is not responsible, thus she is against this amendment
    - 1. Currently if both are approved, neither would pass
  - ii. Ms. Gugulis agrees and thinks that we should keep the current system in place for irreconcilable charter amendments
  - iii. Mr. Lauer thinks agrees with the Charter Review draft recommendations and does not want to leave the issues to the courts, thus remains in favor of the language

- iv. Mr. Hill agrees with Mr. Lauer, adding that there are well organized minorities of voters that can take down positive changes that more voters want than not. Fully supports the language as drafted
- v. Mr. Margolies stated that winning with a small margin happens all the time with candidates. That is democracy and it is also how ballot questions are decided.
- vi. **Vote for/against language on page 22 – irreconcilable ballot questions.**
  - 1. **Aye** – Mr. Lauer, Ms. Teverovsky, Ms. Thomas, Mr. Hill, Mr. Stubblefield, Mr. Paylor, Mr. Margolies
  - 2. **Nay** – Ms. Cox, Ms. Miles, Ms. Gugulis, Mr. Danley
- vii. **The recommendation for irreconcilable ballots remains**

### **III. CONCLUSION**

- a. Mr. Margolies will re-draft the Charter Review Commission Report based on the recommendations from the discussion and review.
- b. Should be in a position to meet in person for the next meeting.
- c. The meeting adjourned at 9:16 AM

Additional information can be found on the official CRC website at  
<http://www.montgomerycountymd.gov/crc/>

## **AGENDA**

### **CHARTER REVIEW COMMISSION**

Wednesday, April 13, 2022  
8:00 a.m.

#### **Location:**

100 Maryland Ave  
Capital Crescent Room – Floor 4  
Rockville, MD 20850  
Office: 240-777-7905

#### **Virtual Meeting Link:**

<https://us06web.zoom.us/j/84452768073?pwd=Q09QZnF6QmhLZ1B3MmxUZGt1NXc2UT09>

**(Times are approximate)**

#### **I. ADMINISTRATIVE ITEMS**

- Acknowledgment of Quorum
- Adoption of Agenda
- Approval of Minutes of March 9, 2022

#### **II. FINAL REVIEW OF DRAFT 2022 COMMISSION REPORT TO SUBMIT TO COUNCIL, ALONG WITH MINORITY REPORT (ATTACHED)**

#### **III. ADJOURNMENT**